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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

No. 96-2-15056-8SEA

AMERICAN TOBACCO, et al.,

Defendants.

DEPOSITION OF GERRY M. NIXON, Ph.D.

October 1, 1997
Richmond, Virginia

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Reported by: Michaela Herman Davis, RPR

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Deposition of GERRY M. NIXON, Ph.D., taken by
and before Michaela Herman Davis, RPR, commissioned as
Michaela H. Herman, notary public in and for the
Commonwealth of Virginia at large, pursuant to Rule 4:5 of
the Rules of the Supreme Court of Virginia, Notice to Take
Deposition, and by agreement of counsel; commencing at 9:04
a.m., October 1, 1997, at the law offices of Hunton &
Williams, 951 East Byrd Street, Richmond, Virginia.

Appearances:

HAGENS & BERMAN

By: JENIPHR A. E. BRECKENRIDGE, ESQ.,
attorney, of counsel for the plaintiff

HELLER, EHRMAN, WHITE & MCAULIFFE

By: MICHAEL R. WRENN, ESQ., and
MAURA SCOTT BLANK, ESQ.,
attorneys, of counsel for the defendant
Philip Morris

SHOOK, HARDY & BACON

By: CYNTHIA HUGHES-COONS, ESQ.,
attorney, of counsel for the defendant
Philip Morris

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I N D E X

Deponent:	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Gerry M. Nixon, Ph.D.	4	-	-	-

NIXON EXHIBITS

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2 GERRY M. NIXON, Ph.D.

3 was sworn and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. BRECKENRIDGE:

6 Q Good morning, Dr. Nixon. I'd like to start by
7 giving you some guidelines for your deposition. Have you
8 had your deposition taken before?

9 A No.

10 Q Your lawyers have probably told you, and I'll
11 just repeat that one of the most important things here today
12 is clarity. I will be asking you questions about your work
13 at Philip Morris. It's important that we are talking about
14 the same thing and that you understand my questions. If at
15 any time you don't understand a question I ask, please ask
16 me to repeat it or clarify it. At the same time, it's
17 important that our court reporter be able to record
18 everything each of us says. That includes my questions,
19 your responses and any objections by your lawyers, so we
20 have to be careful not to talk at the same time. And you
21 have to be careful to respond audibly so she can get it
22 down.

23 A Okay.

24 Q

25
REDACTED

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REDACTED

A

Q Have you ever testified at trial, Dr. Nixon?

A No.

Q Could you tell me what your current job is?

A I am manager of external studies at Philip
Morris.

Q And is that manager of external studies for
Philip Morris USA?

A Yes.

Q And how long have you been in that position?

A I have been doing the job since 1993. There
was a title change. I believe it was last spring.

Q And what was that title change?

A I was previously a research scientist, and then
the title changed to manager of external studies.

Q When your title changed from research scientist
to manager of external studies, did your job
responsibilities change?

A Not in any significant way.

Q In any insignificant ways?

A They were formally written down some
responsibilities that I had been taking over over time, and
they were now in my job description where they weren't

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before.

Q When your job became manager external studies, was that a change of departments?

A No.

Q What is your job?

A There are several aspects to it. I am, I'd say, primarily the liaison between PM USA in Richmond and INBIFO and CRC in Germany and Brussels. I spend a lot of time on the phone or dealing with faxes between the two entities to keep communication and information flowing, keep abreast of the work in both places so that needs are met from each side.

Another aspect of my job is that I am secretary of the scientific research review committee. A third aspect is that because I am on staff for the vice president of research, I do whatever job requests he may have from time to time doing summary papers on previous research or various questions that may come up.

Q Any other responsibilities?

A They are the main ones.

Q Who is the vice president of research?

A Richard Cox.

Q I'd like to start, before we go any further, trying to get a picture of how your job fits in with Philip

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Morris at large. You're the manager of external studies.
Is that within a particular department?

A It's within research and development.

Q Who do you report to?

A To Richard Cox.

Q Is the external studies, is that a department,
or how would you refer to that?

A I would say mainly a job description because of
the work I do in coordinating work at INBIFO and as
secretary of the SRRC.

Q What departments report to -- is it Dr. Cox?

A Yes. I don't guess they are called departments
exactly. He has two directors who report to him.

Q And who would the two directors be?

A Dr. Robert Fenner and Dr. Richard Salana.

Q And what is Robert Fenner's position?

A I don't even know his title for sure.

Q Do you know what his area of accountability is?

A He, I believe, is on temporary assignment to a
quality effort. But he, under Dick, I believe, has several
divisions reporting to him, and I can't tell you the names
of those divisions. Each has a manager.

Q Do you know if -- is there any way to describe
the divisions? For instance, research, new products?

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A I'm not sure I'll get the titles exactly right. There's the product testing laboratory. I believe it's called product research division. And I'm trying to think of the third. I can't even think of the third right now, but there is a third.

Q And then Richard Salana, what are his areas of responsibility?

A I believe primarily product integrity, and the analytical research division manager reports to him.

Q Do you report to either of these directors?

A No.

Q And you may have said this, do you report directly to Dr. Cox?

A Yes.

Q Do you have any employees who report to you?

A No.

Q Do you have any peers in your position? Are there any people who work with you that may not report to you but who work with you?

A I work with a number of people around R&D depending on the nature of a project or the work going on, but I'm not --

Q Okay. Are there particular areas within R&D that you work with?

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A I interact a fair amount with the product integrity group. Other than that, I'd say mainly the senior staff at R&D in requests for research questions as I mentioned early on.

Q What is your educational background? I assume you have your Ph.D.?

A Yes.

Q And what did you receive your Ph.D. in?

A Biochemistry.

Q When was that?

A 1992.

Q How long have you been employed at Philip Morris?

A Since December of 1975.

Q Were you employed anywhere before then?

A Not other than summer jobs.

Q What -- was it your Ph.D. in biochemistry that qualified you to become the manager of external studies for Philip Morris USA?

A I don't know what went into the decision to change me from the technical ladder where I was to a job description. That's part of the personnel management process, and I'm not really a part of that.

Q When you say technical ladder, does that mean

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that previously you had been employed at Philip Morris in the technical side?

A Yes.

Q Did you hold any previous positions in R&D prior to the current position?

A Yes. When I started, I was an entry-level professional and over the years had several promotions up through the technical ranks.

Q What was your undergraduate degree in?

A Biology.

Q Why don't we go through your career history at Philip Morris starting in 1975. What was your first position?

A I don't remember the title for sure. I believe it was assistant scientist. It's been a long time.

Q And was that at Philip Morris Richmond?

A Yes.

Q Were you assigned to a particular department?

A I don't even remember the name. I mean, it was R&D, but I don't remember the name of even the division at that point.

Q Do you recall what type of work you were doing?

A There was a lot of field work in the summertime, growing tobacco under experimental conditions,

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and then during the winter we'd analyze our samples or have them analyzed.

Q How long did you stay in that position?

A About 11 years, I think.

Q Can you tell me how your job evolved over that time? Did it involve title changes or promotions?

A I believe there might have been one or two in there. I don't remember the years by any means.

Q During the 11 years you stayed in that area, were you a scientist for all those years?

A Yes.

Q Did you work on projects other than developing tobacco?

A I wouldn't call it developing tobacco. We just would look at the influence of various agronomic conditions on tobacco. I believe over that time we looked at some enzymes within tobacco.

Q Is that what you were doing for 11 years?

A I'd say that's the majority of it. I can't remember any other.

Q And in approximately 1986 you had a job change?

A I believe that was about when it was. Yes.

Q And what was your new position?

A I don't remember my technical rank at the time,

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but I joined the biological effects of smoke group, I believe it was.

Q Was that an R&D group?

A Yes.

Q And what was your function within the biological effects of smoke group?

A To look at various biological assays for potential use.

Q Could you define biological assay for me, please?

A It can be any number of things. In my case it would be an in vitro assay which is done in Petri dishes with cells. Again it could take many forms. There are lots of them out there in the literature. Basically the cells would be treated with a test substance, and we would look for a change.

Q When you say in vitro, is that as opposed to in vivo? Or vivo, do you say?

A In vivo.

Q Would be on live subjects or live tissue?

A Animal studies.

Q Animal studies. Is an assay a test, or is it a particular type of test?

A I --

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2 Q I'm not familiar with the word assay and I
3 looked it up in the dictionary and I didn't find it. Is it
4 a test? Is it any test, or is it a particular type of test?

5 A I've heard the term applied to lots of
6 different types of tests.

7 Q Then biological assay, is that a particular
8 type of test, or does it encompass particular types of
9 tests?

10 A Biological implies living, and in the case of
11 the assays that I was talking about, we would look at living
12 cells and look for changes.

13 Q Let me ask this question. Does the term assay
14 imply searching for changes or testing for changes?

15 A I don't think it always would because I believe
16 I've heard of chemical analyses. I'm not a chemist. And in
17 those cases you may just be looking for the presence or
18 absence of a chemical in a general sense.

19 Q How long did you stay in the biological effects
20 of smoke group?

21 A I think until about 1990 or '91.

22 Q Did your function change during that period?

23 A No.

24 Q What job did you assume in 1991?

25 A I was with the -- I don't remember what it was

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2 called then. It's the forerunner of what's now the product
3 integrity group. That type of work.

4 Q And what type of work does the product
5 integrity group do?

6 A I shouldn't generalize because I'm not in that
7 group, and it has evolved quite a bit since I was in it.

8 Q Well, why don't I ask you, in 1991 -- how long
9 were you in the group?

10 A Maybe a year.

11 Q And in the year you were in the group, what was
12 the function of the product integrity group or the
13 forerunner of the product integrity group?

14 A We would look into toxicological information
15 available on various substances.

16 Q Is that it?

17 A That was my part of it, and I wouldn't want to
18 speculate on what else went on. I'm not a toxicologist, so.

19 Q What various substances did you study during
20 your time with this group?

21 A I don't remember any specific chemicals. They,
22 I believe, would be in most cases something that someone was
23 interested possibly in using in a product.

24 Q When you say you looked into toxicological
25 information, did that information come from a particular

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1
2 source?

3 A From what I remember we had a number of
4 databases, public databases that could be searched, as well
5 as textbooks or literature, study information.

6 Q Do you recall any specific public databases
7 that you took information from to study?

8 A I don't remember what the acronym stood for,
9 but one sticks in my mind as RTEC, R-T-E-C. I believe
10 another one was -- I want to say ISIS, I-S-I-S. I don't
11 recall any more right now.

12 Q Do you recall any textbooks from which you took
13 toxicological information to study?

14 A I think there was one called Patty's. I don't
15 know if that's P-A-T-T-Y-apostrophe-S or D-D-Y-apostrophe-S.
16 But it's, I believe, a fairly classic document.

17 Q Who did you report to in this group, the
18 forerunner of the product integrity group?

19 A I think it was George Patskan at the time.

20 Q I'm sorry. His last name was?

21 A P-A-T-S-K-A-N.

22 Q After your work in the forerunner of the
23 product integrity group, what was your next position?

24 A The job that I've basically been doing since
25 early '93. I was a research scientist at the time I started

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doing it.

Q In the part of your job that involves being the liaison with CRC and INBIFO, what do you do in that function?

A I spend a lot of time on the phone or giving and receiving faxes. With the six-hour time difference, we have to allow for that. It's -- I'd consider it primarily an update function or a keeping informed function. Truly a liaison. I'm not deeply involved in the research. I try to maintain an awareness of work going on there. Requests from Richmond for information or research, requests from INBIFO for information from Richmond.

Q Are you the only Philip Morris USA contact with INBIFO?

A No. I'm probably the only one that actually has it in my job description, and I do try to maintain an awareness of all the contacts that are going on. But no, we encourage an open communication so that, for instance, if a chemist needs some information about a chemical analysis, he knows who to call at INBIFO if he'd like to talk directly to a chemist there. Or if it's a quick question that I can transmit in my daily phone calls, then I may do it that way.

Q How often are you in contact with INBIFO?

A Pretty much daily. Sometimes more than once a

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day depending on what's going on.

Q Do you have independent contact with CRC also?

A Yes.

Q And would that be as frequent?

A No.

Q Is some of your contact with CRC through
INBIFO?

A Yes.

Q What is the corporate structure of INBIFO? How
does INBIFO fit into Philip Morris?

Let me ask you this. That's a broad question.

A Yeah.

Q Is INBIFO part of the structure of Philip
Morris USA?

A It's difficult to explain, and I may not get
this completely right. Philip Morris USA pays a large
portion of INBIFO's budget, but I believe that INBIFO
actually reports through the structure of PM, maybe
International somehow.

Q You don't know how INBIFO reports?

A I believe it's through International, but I
don't know names or anything like that.

Q Do you know who would know the structure of
INBIFO and how it reports?

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A I guess Cathy Ellis.

Q INBIFO is owned by Philip Morris; is that correct?

MR. WRENN: Objection. Foundation.

A There's Philip Morris in lots of senses. I don't believe it's owned by Philip Morris USA. I believe it's owned by some entity of Philip Morris, but I'm not clear at all on all those relationships.

MS. BRECKENRIDGE: I'm going to have our first exhibit marked here, and maybe this will help.

(NIXON EXHIBIT NO. 1
was marked for identification.)

BY MS. BRECKENRIDGE:

Q If you could take a minute to look at what I'll call an organization chart that was produced by Philip Morris. Have you ever seen this organizational chart before?

A I believe so. Or something similar to it.

Q And as you look at this chart now, does this reflect your understanding of how INBIFO and CRC fit into Philip Morris?

A I believe so, because over here under budget

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2 responsibilities you see the 80 percent which is what I was
3 mentioning of the large part of the budget is paid by
4 Richmond. And -- it looks like the legal relations, like I
5 say, the reporting relationship is somehow through FTR
6 which, I believe, is International.

7 Q Do you know what FTR stands for?

8 A I've seen it written down before. I believe
9 it's French, and I couldn't tell you.

10 Q It is the company name though?

11 MR. WRENN: Objection.

12
13 BY MS. BRECKENRIDGE:

14 Q Is it a company name, FTR?

15 A I couldn't say.

16 Q When did Philip Morris acquire INBIFO?

17 A I believe it was about 25 years ago or so.

18 Q What was the relationship between INBIFO and
19 Philip Morris prior to the acquisition?

20 A That was way before my time of involvement, so
21 I don't know.

22 Q Do you know if there was a relationship between
23 INBIFO and Philip Morris prior to Philip Morris's
24 acquisition of INBIFO?

25 A I couldn't say.

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Q Do you know if INBIFO did any work for Philip Morris prior to the acquisition?

A Again it would be just speculation.

Q Do you have any -- what's your speculation?

MR. WRENN: Objection.

A I would guess that they must have had some dealings with them to know the quality of their work before they acquired them, but I don't know.

BY MS. BRECKENRIDGE:

Q Do you know why Philip Morris acquired INBIFO?

A No.

Q Have you ever heard any speculation on why Philip Morris acquired INBIFO?

A No.

Q Have you ever heard others at Philip Morris discussing why Philip Morris acquired INBIFO?

A No.

Q Have you ever heard anyone say that Philip Morris acquired INBIFO so they could conduct research in Europe that they didn't want to conduct in the United States?

A I don't recall ever hearing that from a Philip Morris person.

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Q What entities does INBIFO do work for?

A What do you mean entities?

Q Does INBIFO -- INBIFO does work for Philip
Morris USA?

A Yes.

Q Does INBIFO do work for Philip Morris
International, to your knowledge?

A I believe so.

Q Would you be responsible as the liaison between
INBIFO and Philip Morris International?

A No.

Q Does INBIFO do work for non-Philip Morris
entities?

A Yes.

Q And would you have any dealings with INBIFO's
work with non-Philip Morris entities?

A No.

Q What is the relationship between CRC and
INBIFO?

A There's a close working relationship. I'm not
sure -- I was just going to look at this chart and see. It
would be trying to figure out from this chart what their
official relationship is, and I'm not sure of that.

Q Is CRC part of INBIFO?

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A I don't --

Q Would you consider CRC an arm of INBIFO, or is it a separate entity?

A Again you're asking me about areas that I just don't have in-depth knowledge.

Q Okay. And that's fine. As I'm sure your lawyer's told you, if you don't know -- I may ask you about a lot of areas you have no information on today, then all I want to know is whether you know about it.

Do you know the relationship between INBIFO and CRC?

A Not other than a working relationship. I don't know official.

Q Do you know when CRC was formed?

A I've seen it written down. I believe it was in the 80s, but I can't get any closer than that on a date.

Q Where is CRC located?

A In Brussels, Belgium.

Q And my understanding is that CRC stands for Contract Research Center; is that accurate?

A Yes.

Q Do you know why -- do you know who formed CRC?

A No.

Q Do you know if INBIFO formed CRC?

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1 A No.

2 Q Do you know why CRC was formed?

3 A I have never seen anything official.

4 Q What is the unofficial word on why CRC was
5 formed?

6 MR. WRENN: Objection. Lacks foundation.

7

8 BY MS. BRECKENRIDGE:

9 Q Have you heard unofficial word on why CRC was
10 formed?

11 A I don't remember who I heard this from, so I
12 don't have any idea how accurate it may be because I have
13 never been told directly. I believe that there were some
14 legal changes in Germany about experimentation with animals
15 that necessitated that sort of work being done at CRC.

16 Q Do you know what those legal changes were?

17 A No.

18 Q Do you know anything about the legal changes at
19 all, any specifics?

20 A No.

21 Q Have you heard people at Philip Morris discuss
22 the legal changes in Germany that led to the formation of
23 CRC?

24 A No.

25

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Q Do you know if the legal changes related directly to the manufacturing, testing or development of cigarettes?

A No.

Q Do you know if the legal changes were a restriction on animal testing?

A I believe that's what I just was trying to say a few minutes ago. That's about the extent of my knowledge though.

Q Have you ever discussed it with anyone at INBIFO?

A I don't recall.

Q Do you recall discussing it with anyone at Philip Morris USA or Philip Morris International?

A Again I heard this, but it's been years ago. And I don't remember who I heard it from and whether it was a discussion or I just heard it.

Q Let me clarify something. I'm using the terms Philip Morris USA and Philip Morris International. Is there also an entity known as Philip Morris Europe?

A Again you're asking me about international organization, and I really don't know how it all works.

Q I just want to make sure you and I are talking about the same thing. Do you know who owns CRC?

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A Again all I can do is look at this, and it looks like FTR does. But you're asking me again to speculate, so.....

Q You don't have any knowledge of the ownership of CRC really?

A No.

Q How many personnel are employed at INBIFO?

A I haven't seen a head count lately, but I believe maybe 120 to 130.

Q And are all of those individuals employed at Cologne?

A There are, I believe, a couple of expatriate situations, but the vast majority are in Cologne.

Q Would the approximate head count you gave incorporate CRC employees?

A No.

Q Okay. The INBIFO facility, the main INBIFO facility is located in Cologne, Germany; is that correct?

A Yes.

Q Is the INBIFO facility divided up into separate departments?

A I don't know if they call them departments, but there are some divisions.

Q Any sort of divisions?

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2 A Yeah.

3 Q Can you tell me what those divisions are?

4 A It's been a long time since I've looked at
5 their org charts, but one area is -- the name won't be
6 right, but it's engineering folks and people who take care
7 of mechanical things and computers and those sort of things.
8 And then --

9 Q Would that be like physical facility-type
10 people?

11 A As well as equipment.

12 Q Okay.

13 A There are a couple of other groupings of people
14 which aren't as clearly defined in my mind to put a name on
15 them. They do have titles for those areas, I just haven't
16 looked at the chart lately to know what they are called, but
17 testing in nature. The analytical chemistry group is in one
18 of those areas. And again the grouping is not as clearly
19 defined to me as the other group is.

20 Q Are there other groups?

21 A There are, as well as I can remember, three
22 main ones. The engineering type and then the two others
23 that are to me more similar in nature.

24 Q And that would be the testing and the
25 analytical research?

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2 A Yeah. Analytical is part of one of those.

3 Q Is there a bioresearch group?

4 A The two that aren't clearly divided in my mind
5 both have aspects of that in it.

6 Q So the research which is conducted at INBIFO
7 would fall in one of those two groupings in your mind?

8 A Yes. I mean --

9 Q I'm just trying to understand how INBIFO is
10 structured. Have you ever been to INBIFO?

11 A Yes.

12 Q How often do you go to INBIFO?

13 A It varies. This year I've been twice.

14 Q And what were the occasions of those two
15 visits?

16 A We try to yearly have a fairly comprehensive
17 review of the work being conducted.

18 Q And was that one of your visits in '97?

19 A Yes.

20 Q What was the other visit purpose?

21 A For a specific review on a certain project.

22 Q What project was that?

23 A We're getting into the confidential -- we're
24 okay with that?

25 Q I've signed a confidentiality agreement. I

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2 won't tell anybody.

3 MR. WRENN: We may mark the record at this
4 point in time. So again we will provisionally designate
5 this entire transcript highly confidential, and certainly
6 any testimony that is about to come on any projects that are
7 undergoing we want protected.

8
9 BY MS. BRECKENRIDGE:

10 Q Yes. Do you understand that?

11 A Uh-huh. It was on the -- what we call the Beta
12 project.

13 Q On the average how many times a year have you
14 been to INBIFO since you've been in your current position?

15 A Without looking back at the numbers, it's hard,
16 but I'd say maybe three to four.

17 Q When you visit INBIFO, do you meet with the
18 same people each time?

19 A Pretty much. If there is an update to be done
20 on a certain aspect of work, then we may hear from somebody
21 in the labs that we hadn't heard from the previous time or
22 whatever. Just depending on the nature of the updates.

23 Q Who are your primary contacts at INBIFO?

24 A Would feel Reininghaus.

25 Q And is it Dr. Reininghaus?

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2 A Yes.
3 Q What is his title?
4 A I believe it's general manager of INBIFO.
5 Q Do you know how long Dr. Reininghaus has been
6 there?
7 A No.
8 Q Has it been longer than you've been in your
9 position?
10 A Yes.
11 Q And you have other primary contacts at INBIFO?
12 A Ewald Roemer is head of one of the divisions
13 that I mentioned that I can't clearly divide. And he, when
14 Dr. Reininghaus is out of town or unavailable, will take
15 over that liaison responsibility.
16 Q Are there any other individuals at INBIFO with
17 whom you have regular contact?
18 A Hans-Jurgen Haussmann would also serve a
19 similar function. Not as frequently as Dr. Roemer.
20 Q Is he in a different department from Dr.
21 Roemer?
22 A He's head of the other group, the two that I
23 can't clearly divide.
24 Q That was my question.
25 A When he's in Germany, yes.

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Q Where else would he be other than Germany?

A Right now he's on a two-year -- I don't know whether his status is expatriate or what, to Richmond. He's in Richmond.

Q Dr. Reininghaus is the general manager of INBIFO, and you named the other two heads of the departments. Do they have particular titles that you know?

A They do, but I can't remember what they are specifically.

Q Do you know how many people report to Dr. Reininghaus?

A Well, he's the general manager of INBIFO, so whatever the current head count of INBIFO is, they ultimately, not directly, but ultimately report to him.

Q Are there any other department heads other than Dr. Roemer and Dr. Jurgen-Haussmann?

A It's Hans-Jurgen Haussmann. The head of the third area, the engineering-type area, is Dr. Helmut Schaffernicht.

Q Do you deal directly with Dr. Schaffernicht?

A Not very often. I have no engineering background, and that's his expertise.

Q When you conduct an annual comprehensive review -- let me ask this question first. Do you conduct

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an -- a comprehensive review of INBIFO projects annually?

A We try to do that on a regular basis, yes.

Q What is entailed in a comprehensive review?

A There will be presentations by the scientists who are involved with the work.

Q Who from Philip Morris USA would attend a comprehensive review?

A It varies depending on schedules, but the head of research which right now is Dick Cox, the head of R&D which right now is Cathy Ellis, usually Richard Carchman is there, I go. The rest of the group varies, I think, depending on availability and subject matter.

Q Aside from presentations, what does a comprehensive annual review entail?

A There could be language for future projects.

Q Is the annual review a time when you would gather together with your ideas and discuss potential products -- projects, excuse me, for the upcoming year?

A It could be.

Q At the annual comprehensive review, are critiques made of the presentations?

A No.

Q Are the presentations evaluated scientifically on their merits?

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2 A I wouldn't call it evaluated. There's
3 discussion of the results and what does it mean or where's
4 the project going from here or what are the stumbling blocks
5 to the progress of the research or that sort of thing. I
6 wouldn't call it a critique.

7 Q Would you characterize it as a scientific
8 discussion?

9 A Yes.

10 Q Are there reports generated as a result of the
11 annual comprehensive review?

12 A I keep a copy of all the presentations and have
13 them on file if anybody needs to refer back to them. Just
14 in the course of INBIFO's work process, there are reports
15 generated on projects that are not in presentation form.
16 They are actual written formal reports.

17 Q Are there written formal reports which are
18 generated on a regular basis?

19 A Reports are generally generated at the
20 completion of a project. If there's a need along the way,
21 there may be what they call an intermediate report sometime
22 either during the course of a project or after data
23 collection is complete, but before all the final pieces have
24 been put together as far as the quality process over there
25 for good laboratory practices.

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Q What would be a need for an intermediate report?

A If the results of a report would help make a decision as to direction for future research.

MS. BRECKENRIDGE: Could you read back that answer, please?

(The record was read.)

BY MS. BRECKENRIDGE:

Q Who would make that determination?

A I think it would vary depending on the nature of the project. If it's a project in basic research as far as, oh, it could be some biological assay as we've discussed, and the results are indicating that the procedure is not handling well in our hands, or there are reasons that it wouldn't seem worthwhile to pursue it because of the way it works, the information we're getting about it, then maybe the decision would be to allocate resources in another direction instead.

Q Who receives the intermediate reports?

A I am the first receiver of them.

Q Do you receive all the reports that are generated by INBIFO which relate to Philip Morris work?

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A I believe so.

Q Is that how it is supposed to work?

A This is a little bit about how INBIFO works.

If a project is one that has been requested, then certainly there is an answer that needs to come back, and yes, we get those. INBIFO sets up what they call a project for lots of little things. That's just their bookkeeping way. And so there could be aspects of a -- or a project that are aspects of something else, maybe how to get a certain machine to work would be a project. Obviously we don't have a whole lot of interest or need for that, and so that sort of project, whatever reporting or data is available on that wouldn't necessarily come to Richmond because there wouldn't be a need for it. It's part of their work process.

Q Let me ask you a couple of questions about that. First of all, you wouldn't get a report from INBIFO on non-Philip Morris work that INBIFO conducts; would you?

A No.

Q And INBIFO does conduct some non-Philip Morris work?

A Yes.

Q When you say INBIFO sets up a project, is that a form procedure at INBIFO?

A I believe it is.

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Q And when you say sets up a project, do they assign the project a number or --

A Yes.

Q Is that a numbering system that's also used to track INBIFO projects at Philip Morris?

A It's on the documentation in most cases, depending on how formal the documentation is.

Q Does INBIFO set up the projects on a computer?

A I'm not exactly sure how all that works, I just know they are very effective in getting us answers when we ask about a certain project. They can pull that information very quickly and get it to us is.

Q That's the Germans for you.

Does INBIFO have a computer system on which they enter this information? The project information I'm talking about.

A They have a computer system and they enter some information. I don't know the level of depth of that information on the computer.

Q Is the INBIFO computer system separate from the Philip Morris computer system?

A I'm not a computer person. I believe it's completely separate, but I don't know how that networks. I don't even know how it works within Philip Morris USA

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Richmond, so I certainly don't know across the water.

Q Could you access the INBIFO project system from your office at Philip Morris?

A No.

Q Could you ask someone at Philip Morris to access INBIFO's computer system?

A Not as far as I know.

Q Can you E-mail INBIFO?

A Theoretically. Wolf's name is on the E-mail list, but it doesn't go through. I've tried and I end up faxing him everything.

Q Do you know if Wolf's name, Wolf Reininghaus's name is on the Philip Morris E-mail list? Is he included in the Philip Morris E-mail system, or would it be an Internet E-mail system, do you know?

A I don't know how all that works.

Q What's the Beta project?

A It's a -- I'm afraid I won't get these words exactly right. I'd like to use the words that are around the patents because that's what's available in the public right now. It's a cigarette which is electrically lit and in constant contact with its lighter.

Q And what is the special review of the Beta project which took place this year?

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A What do you mean what was it?

Q What prompted the special review?

A A phase of testing was being completed and
needed to be reviewed.

Q Is the product close to the marketplace?

A I'm not privy to that detail.

Q Who is the head of CRC?

A Dr. Peter Terpstra.

Q Could you spell that last name, please?

A T-E-R-P-S-T-R-A.

Q And do you know what his title is?

A No. He's just head of CRC.

Q Do you know how many employees there are at
CRC?

A Again I haven't looked at a head count lately,
but I'd say 20 to 25.

Q Is CRC divided up into different groups?

A I really don't know.

Q Do you have a primary contact at CRC?

A I don't talk to him that often, but Peter is
the one I would call. Peter Terpstra.

Q Would you talk to anyone else at CRC?

A I certainly have. But not on any regular
basis.

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2 Q If you had a question concerning CRC, is Dr.
3 Terpstra the person you would contact then?

4 A Yes.

5 Q Would you be more likely to contact someone at
6 INBIFO regarding a question concerning CRC?

7 A It depends on the nature of the question.

8 Q Can you tell me what categories of job
9 positions there are at CRC?

10 A There are technicians and there are
11 professionals. I believe of some of them have the title
12 study director.

13 Q Would professionals include scientists?

14 A I believe some are scientists and maybe one is
15 an engineer, I believe.

16 Q Any other categories of employees?

17 A There probably are. I mean, I think there are
18 some finance people, and there may be other aspects of
19 technical that I'm not familiar with.

20 Q Is there anyone else at Philip Morris USA who
21 has more contact with CRC than you?

22 A I don't know.

23 Q Do you know of any other people who interface
24 regularly with CRC?

25 A No.

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2 Q And by any other people, I'm talking about
3 Philip Morris USA people.

4 A Right. I certainly don't sit in on everybody's
5 daily phone calls, but I don't think so.

6 Q Do you know what percentage of INBIFO's work is
7 done for Philip Morris USA?

8 A No.

9 Q Do you know what percentage of CRC's work is
10 done for Philip Morris USA?

11 A Because I don't keep track of projects that are
12 done for third parties, I can't say for sure, but I don't
13 know of any CRC projects being done for third parties at the
14 moment.

15 Q Do you know of CRC projects which have been
16 conducted for third parties in the past?

17 A No. But that's not part of my job to keep up
18 with that.

19 Q Does CRC report to INBIFO, do you know?

20 A Again you're asking me about that organization
21 that I really don't have the details.

22 MS. BRECKENRIDGE: I'm going to ask the court
23 reporter to mark another exhibit.

24
25 (Recess)

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2 (NIXON EXHIBIT NO. 2

3 was marked for identification.)

4
5 BY MS. BRECKENRIDGE:

6 Q Dr. Nixon, could you tell us what the
7 function -- or let me start over.

8 Can you please tell us Dr. Nixon what the
9 mission of INBIFO is?

10 A I've seen it written down, but I wouldn't want
11 to try to quote it without looking at it.

12 Q Okay. How would you describe what INBIFO's
13 purpose or function is?

14 A They have expertise in a number of areas which
15 they lend to analysis of samples.

16 Q And when you say lend to an analysis of
17 samples, is that a particular type of sample?

18 A They have worked with a number of materials.

19 Q What materials does INBIFO work with?

20 A They can analyze cigarette smoke in various
21 ways. They have analyzed various ingredient-type
22 substances.

23 Q Do they ever analyze tobacco itself?

24 A They haven't since I've been involved. I don't
25 know for sure what their capabilities are in that area.

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I've never asked them to do that myself.

Q Can you describe the mission of CRC if it has an independent --

A I was going to say I don't recall seeing one written down. Maybe I have and I just don't remember.

Q I'm going to show you a document which has been marked as Exhibit 2. If you could take a minute to read this thoroughly, and I'll have several questions to ask you about it.

Have you had a chance to look at the document?

A Yes.

Q I'd like to ask you a few questions about the document. First of all, have you ever seen this document before?

A I believe I have.

Q Do you know who created the document?

A That would be hard to say from what's here.

Q Do you know what context you saw this document in?

A It looks to me like a presentation just because of the format.

Q Is this a -- would you say this is a typical format for a Philip Morris presentation?

A I just say it looks like a presentation just

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because of the nature of the way it's written without, like, paragraphs and things like that. I don't know that there's anything that we can call typical in something that big.

Q Do you know approximately when you would have seen this document?

A No.

Q From looking at the document, is there any way to estimate when it would have been written or prepared?

A Well, obviously since 1991, since that's the last mile stone. And I would say it's been sometime back because I see mention of Roger Walk on the organizational chart and he is not at INBIFO anymore and I don't know when his move happened.

Q Do you know where Roger Walk moved to?

A I believe he reports to Richard Carchman in scientific affairs.

Q If I could direct your attention to the mission statement on -- I'm going to use the Bates numbers. 2745.

A Uh-huh.

Q Does the mission statement there for INBIFO appear to be accurate to you?

A Yes. I would characterize that as what they do.

Q Would you add anything to that description of

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INBIFO's mission?

A No.

Q From your testimony it appears this document may have been created prior to your becoming the liaison for INBIFO and CRC.

A I don't know that. All I can say is it looks like it was after '91.

Q Right. I'm sorry, that was just the preface to my question. But has the mission of INBIFO changed since this time to your knowledge?

A I would still characterize this as in general what they do, so I don't think so.

Q And as far as the mission statement for CRC, to your knowledge is that an accurate mission statement for CRC today, Maintain facilities for in vivo testing in support of INBIFO activities?

A Yes.

Q Would you add anything to that description of CRC's mission statement to accurately describe the mission of CRC today?

A No.

Q What is biological activity as stated in the INBIFO mission statement?

A The way I look at it is use of biological

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2 assays, as I described earlier, to evaluate samples.

3 Q I'm not sure I understand that definition, so
4 I'm going to ask the court reporter to read it back.

5
6 (The record was read.)
7

8 BY MS. BRECKENRIDGE:

9 Q How does that describe biological activity?
10 Understanding that I'm a layperson and the jury who may
11 eventually hear this testimony will be lay people also.
12 When you say biological activity of cigarette smoke, could
13 you describe that for us?

14 A When I was discussing, for instance, in vitro
15 assays earlier, I said that you can look at, for instance,
16 certain cells in a dish, untreated, and then after treatment
17 with a substance look for a change. A change implies
18 biological activity.

19 Q Oh, I see. Does CRC conduct any testing that
20 is not in vivo?

21 A They run some chemical analyses in support of
22 their in vivo assays.

23 Q What chemical analyses would they run?

24 A For instance, for an inhalation assay, one
25 would need to monitor the levels of some components that are

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2 being sent through the system to the animals.

3 Q I'd like to now turn your attention to Page
4 2747 which is an organizational chart. Can you tell me what
5 this is an organizational chart for? Is it an INBIFO
6 organizational chart?

7 A It appears to be.

8 Q Can you tell from looking at it what year this
9 organizational chart might be from?

10 A No. It's not current, as I said, because some
11 of these folks are gone.

12 Q Can you identify who on this organizational
13 chart has left other than Dr. Walker -- Walk?

14 A Who is left or who has left?

15 Q I'm sorry. Let me restate it. Can you
16 identify for me on that chart who has left the INBIFO
17 organization?

18 A If I have this first name right under human
19 resource, I believe it's Rassier, I believe she is deceased.
20 I never knew her, but she's not the human resource person
21 now.

22 Q Do you know who the human resource person is
23 now?

24 A Thomas Scloen, S-C-L-O-E-N. Under business
25 administration, Mr. Eberhard, I believe, has retired.

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2 Q Do you know who is responsible for business
3 administration?

4 A I have it written down at my office, but I
5 don't remember his name.

6 Q Oh, that's it. Does this chart reflect the
7 current organization of INBIFO?

8 MR. WRENN: Objection. In what way?

9
10 BY MS. BRECKENRIDGE:

11 Q I asked you earlier if you knew the departments
12 or groupings of INBIFO, and you said not off the top of your
13 head. You couldn't recall. Then I recalled this exhibit,
14 so I brought it out. And I wanted to ask you, does this
15 refresh your recollection of how INBIFO is organized?

16 A Some of the lines may have shifted over time as
17 to exact, you know, how you draw it up. I don't know if
18 that really affects the organization. The Bioresearch 1 and
19 Bioresearch 2 were the names I couldn't think of for
20 Haussmann and Roemer's areas.

21 Q Are those the areas for Dr. Haussmann and Dr.
22 Roemer today?

23 A As I said, Dr. Haussmann is in Richmond right
24 now, but those areas still exist as far as I know. There
25 may have been some shifts between them or among them since

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1
2 this. I really can't say.

3 Q When you say shifts, are you referring to
4 shifts of employees or --

5 A Of research responsibility areas. Like I say,
6 that's not real clear to me how that's divided, so I can't
7 say whether it's exactly the same.

8 Q Do you know if those two areas are still
9 referred to as Bioresearch 1 and Bioresearch 2?

10 A I believe so.

11 Q And who has taken Dr. Haussmann's place in the
12 Bioresearch 1 department?

13 Would that be Ewald Roemer?

14 A I don't believe there's been a formal
15 replacement. It's, like I say, a couple years
16 cross-assignment, so.....

17 Q Is there currently a quality assurance grouping
18 at INBIFO?

19 A Yes.

20 Q And would vonHolt be responsible for the
21 quality assurance area?

22 A Yes.

23 Q What is vonHolt's first name?

24 A Klaus.

25 Q Is the area for which Mr. Schaffernicht has

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responsibility presently called the bioresearch support area?

A I believe so. That's the area I was referring to as the engineering mechanical grouping.

Q And is there presently a research project committee at INBIFO?

A I couldn't say. I don't recall seeing that term. It may be in some of the information I have, but I've never had reason to talk about it with anyone.

Q Have you ever had any dealings with the research project committee?

A No. Like I say, I don't recall ever.

Q Have you ever heard anyone discuss the research project committee?

A No.

Q Can you think of any committee at INBIFO presently which would have responsibility for research projects?

A I am not there on a daily basis obviously, and they conduct their business in a very organized fashion, but I'm not clear on exactly how it works, so they could have this same committee. They could have something different but similar in function. I really don't know.

Q That was going to be my next question. Can you

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2 think of any committee that you have had contact with which
3 would be comprised of the people listed underneath the
4 research project committee in this chart?

5 A No, not any committee by name. It looks like
6 they have listed the heads of the various groups as being
7 there, so.....

8 Q Do you know what the areas of responsibility
9 for the quality assurance group would be? And let me stop
10 there. I'm calling them groups. Is there a more -- is
11 there a Philip Morris terminology for this area of
12 responsibility? I'm using group in the generic sense.

13 A That would be as close as I could come. They
14 probably do have a formal name for it, but it is a group of
15 people.

16 Q I wanted to make sure you understood me. I'm
17 using it in the generic sense. Could you tell me what the
18 area of responsibility would be for the quality assurance
19 group at INBIFO?

20 A Again I don't deal with them on a daily basis,
21 but INBIFO is a GLP laboratory, and there are a number of
22 responsibilities for documentation and data verification and
23 that sort of thing that go with that. And I believe this
24 group is in charge of that process.

25 Q When you say that INBIFO is a GLP laboratory,

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does that refer to good laboratory practices?

A Yes. I don't believe it is exactly that term in Germany, but it's whatever certification for that kind of lab. They are inspected every couple of years to receive the certification.

Q That would not be a Philip Morris certification?

A No.

Q Would it be accurate to describe it as an industry standard?

A When you say industry, are you referring to any industry?

Q I guess I'm talking about an industry that doesn't exist, the science industry. How would you describe that for someone who didn't know what good laboratory practices are?

A I am not an expert in that by any means, but I believe in Germany it works as a government certification that you conduct your research and handle your data in certain specified ways, and it's a mark of quality.

Q What types of documentation is the quality assurance group responsible for?

A I don't know specifically within the internal workings of INBIFO because again I'm not there for the

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day-to-day aspects of projects which I believe they are involved with all along. But there is a quality assurance sort of signature that comes on reports that we receive that the data has been through whatever process is necessary to -- or the project has been conducted in whatever ways necessary to receive that signature.

Q Is the quality assurance group responsible for conducting any tests itself?

A Not to my knowledge.

Q Is the quality assurance group responsible for conducting any research itself?

A Not to my knowledge.

Q Can you describe for me the work done by the Bioresearch 1 group?

A Well, as I said earlier, I wasn't real clear on the division between Bioresearch 1 and Bioresearch 2, and there is a page later in this document starting with 2749, 50, 51, 52 that seem to describe those. There could have been some reorganization since this was written. I'm not real sure. I don't have it in my head as to exactly which groups are where. Or they could be virtually the same.

Q Okay. Let me move to another area and then we'll go to those pages and maybe that could be a guide to our discussion of Bioresearch 1 and Bioresearch 2 groups.

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2 Can you describe for me the function of the bioresearch
3 support group?

4 A That's the one I mentioned earlier which was
5 the engineering mechanical type, and I believe that -- I
6 must have -- my memory must have served me fairly well
7 because the last page looks pretty similar to what I said.

8 Q Thank you. Let us turn to the page you pointed
9 out which starts at 2749, and the heading is Bioresearch 1,
10 dash, Haussmann. It appears to be a two-page description of
11 the Bioresearch 1 areas of responsibility. Can you look at
12 the two-page description and tell me, does this comport with
13 your understanding for the bioresearch -- what the
14 Bioresearch 1 group does?

15 A I don't know if sensory physiology would still
16 be a category. Other than that -- if the division between 1
17 and 2 has remained the same since this document, then yes,
18 these look like things I've heard of.

19 Q Is there anything you would add to the function
20 of Bioresearch 1 in 1997 that doesn't appear on this
21 document?

22 A I can't think of anything.

23 Q Let me refer you to Page 2750. There's
24 handwriting on that document, and I'd like to represent to
25 you that that handwriting was on the document as produced to

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us. It's virtually illegible handwriting. Do you recognize that handwriting?

A No.

Q Can you read what that handwriting says?

A No. My copy is very scratchy.

Q Mine is also. Going back to Page 2749, can you describe analytical chemistry for me?

A I'm not a chemist. I'm not sure. What do you want? Describe it how?

Q Is there an easy layperson's way to define analytical chemistry which you can provide?

A For me it would be a layperson because I'm not a chemist. I think of it as the analysis of samples to look for certain compounds.

Q In the INBIFO context does analytical chemistry encompass certain tests?

A INBIFO scientists are qualified to perform and have gone through the verification and validation process to perform a number of chemical assays.

Q Is there a particular list of chemical assays performed by INBIFO that would fall within analytical chemistry?

A I guess if we ask them, they could show us their list of SOP, standard operating procedures, which they

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have available for each assay they have validated or verified or whatever the process is.

Q But as far as you're concerned, you don't have any particular knowledge of those SOPs or the types of assays; is that correct?

A Well, I've certainly seen lists of assay results. But there's not a list that I know of.

Q Going down to the next category, biochemistry, what is enzyme biochemistry?

A It could encompass any number of things. Living organisms are full of enzymes, and they can be investigated from lots of perspectives. Either analyzing for the presence of an enzyme or analyzing for enzyme activity under various conditions.

Q What is foreign compound metabolism?

A Foreign compound would be something that's not ordinarily found in an organism, introduced to it. And then metabolism would refer to what the organism would do to it metabolically once it was in its system.

Q And could you define for me intracellular regulation?

A Intracellular means within the cell. Regulation -- these are very general terms. All of these that could encompass any number of different assays they may

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have looked at over time. Regulation could refer to just cell processes that occur. And there's always investigation both at INBIFO as well as in the outside literature as to all the cell processes to just gain greater understanding.

Q What is biomonitoring?

A Again it's a very general term. It could refer to once there has been exposure to a substance in some way. Bio means life, monitoring. In other words, is there some evidence of that exposure, say in urine or something like that, that you could connect with the exposure.

Q Turning your attention to Page 2751 of Exhibit 2. Could you look at the list for the Bioresearch 2 group and tell me, does this reflect your understanding of the work conducted by the Bioresearch 2 group presently. And I'd like to point out that the description is continued on 2752.

A I would say it represents work that certainly has been done over time that I've heard of. I wouldn't say that all of this is going on presently.

Q Can you identify categories which would not be going on presently at INBIFO in the Bioresearch 2 area?

A I believe the work on strand breaks has been completed. I don't know that that is being pursued on any kind of regular basis at this point. I'm not sure whether

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transformation assays are being investigated at this point. They have been in the past. I am not sure about sister chromatid exchange at the present. Certainly it's been done in the past. The cytometry ones are so general, I can't tell. Certainly there's work going on in that area. I can't take anything off of this list on 2752.

Q Is there anything -- I'm sorry. I interrupted you.

A On Page 2752 there's nothing I can specifically take off from this very general listing.

Q Is there anything you would add to this list as far as work that's being conducted in the Bioresearch 2 area at INBIFO presently?

A I can't think of anything because again these are very broad areas, and I think I could fit most everything I know have gone on under one of them.

Q Can you -- under cytometry, what is cytometry in the first place?

A I don't know that I've ever seen a formal definition. A flow cytometer is an instrument that is able to sort cells based on various characteristics that it's programmed for. That probably is what they are referring to. That analytical capability.

Q Are you familiar with the term "endpoints after

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in vivo" which appears on 2752?

A I've certainly heard it before. I couldn't name any that have been investigated.

Q Can you give me an example? I'm not sure I even understand what that term means.

A My interpretation from it from this, okay, in vivo is in the organism itself, in the animal, so there could possibly be exposure of an animal to some substance and then investigation of various endpoints afterwards.

Q An endpoint being what would happen to the substance or what would happen to the animal?

A What would happen to the substance. What could happen to a cell from various aspects. I can't name anything specific.

Q Who determines what work is sent by Philip Morris USA to INBIFO?

A It varies depending on the work.

Q Is there a particular category of work which is sent to INBIFO?

A Requests come from several different sources. The product integrity group may have requests for testing. There may be a need for testing or information or collaboration or whatever from analytical chemists in Richmond to the analytical chemists over there.

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2 Q Is there any other department which would send
3 research work to INBIFO?

4 A All that work I just mentioned would have come
5 from R&D somehow. I can't think of a PM USA department that
6 would send work. I'm not saying that it hasn't ever
7 happened, but I can't think of one.

8 Q Is R&D a PM USA department?

9 A As I refer to it, it is. I'm talking about the
10 organization here in Richmond.

11 Q Is R&D in Richmond part of a larger R&D Philip
12 Morris group?

13 A You're getting into organizational structure
14 again that I'm not real clear on. There are some aspects of
15 R&D in other places. R&D Richmond is R&D for PM USA.

16 Q Who would know about the international aspects
17 of R&D?

18 A I suppose Cathy Ellis would be the best one to
19 start with.

20 Q Are the only PM USA areas which send work to
21 INBIFO the product integrity group and the analytical
22 chemists?

23 A There may be requests that could have been
24 considered to come from scientific affairs.

25 Q When you say may, are you not familiar with any

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2 examples where scientific affairs has sent work to INBIFO?

3 A Over time the organization in Richmond has
4 shifted around and different people have been responsible
5 for different areas. And it's hard to remember back to the
6 history of how some things got started, but that's why I say
7 may. I can't say absolutely whose thought process began it
8 all or whatever.

9 Q Is scientific affairs Dr. Carchman's area?

10 A Yes.

11 Q Let me ask you this. Who is authorized to send
12 work to INBIFO? Are certain departments authorized to send
13 work to INBIFO?

14 A There's not like an authorization form or
15 anything like that. We have a process within R&D that we go
16 through in evaluating projects to be undertaken.

17 Q Could you -- when you say we have a process in
18 R&D to evaluate projects which can be undertaken, does that
19 process apply to both PM USA projects and INBIFO projects or
20 to one or the other?

21 A To both.

22 Q Is the process the same for both?

23 A There are sort of two processes, but the
24 difference is not between INBIFO and R&D. It's the nature
25 of the project.

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Q Okay.

A If product integrity needs work done, then they submit it through me. If there is a project to be undertaken in other areas, whoever has the concept for the project submits it, and we have a formal process where scientists from Richmond and INBIFO and FTR all have input.

MS. BRECKENRIDGE: Could you read back the last response, please.

(The record was read.)

BY MS. BRECKENRIDGE:

Q Are these the two processes through which you determine whether research -- let me start over. Are these the two processes through which R&D determines whether a particular research project will be undertaken?

A The SRRC process sort of encompasses it all.

Q And when you say SRRC?

A That was, as I mentioned in my job description earlier, the scientific research review committee.

Q Okay. Are there any other processes for determining whether a research project will be undertaken in R&D?

A I can't think of any.

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2 Q Do these processes apply to both Philip Morris
3 USA R&D research projects and INBIFO research projects?

4 A Yes. As I said earlier, when somebody has a
5 concept for a project, whether they be from INBIFO or here
6 or wherever, it goes through the concept review process.

7 Q Who are the FTR scientists?

8 A For?

9 Q Well, in response to my question about the
10 processes, you say that if another area other than product
11 integrity needs work done, they propose the idea and then
12 scientists from Richmond INBIFO and FTR all have input.

13 A Yeah. It's a fairly new list.

14 Q I didn't understand that FTR had any
15 independent employees or scientists. Maybe we need to get
16 into that. There are scientists employed by FTR?

17 A Again you're asking me organization. I
18 referred to FTR as there is a laboratory in, I believe it's
19 Neuchatel, Switzerland. And I don't know whether that's
20 formally under FTR or some other -- it's part of PM
21 International, I believe. Again you're asking me
22 organization I'm not sure of. I'm referring to that group
23 of people.

24 Q Okay. Do you know how many scientists FTR has?

25 A Into.

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Q Can you tell me the name of any -- names of any FTR scientists?

A For review of concepts, for instance, Jacques Zuber is on that list. I can't -- Allen Castman is on the SRRC. I can't remember if he's on the concept review list or not.

Q And when you say concept review list, is that a particular committee?

A Uh-huh.

Q Is that an R&D committee?

A Well, like I say, it's a group of people who are from INBIFO, PM USA and FTR.

Q Is the same committee always convened to review concepts?

A It has not been convened as a committee. The concepts are circulated by paper.

Q And are the concepts always circulated to the same group?

A Yes.

Let me amend that. If there is need because of the nature of the scientific expertise needed, if we need very specialized input, there could be an additional person, depending on the nature of the evaluation needed. But it would still go to that general list. It just may have an

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2 extra person added based on need.

3 Q I'm sorry. Is it accurate to say then that the
4 core group that reviews the concepts remains stable?

5 A It has in the time it's been established.

6 Q How long has it been established?

7 A Formally less than a year. I don't remember
8 exactly.

9 Q Do you know whose idea it was to form such a
10 review team?

11 A I don't recall any one person. We all just
12 knew there was a need to have a review.

13 Q How was a review of proposed research or
14 concepts, as you put it, conducted prior to the development
15 of the concept review group?

16 A Similarly, but less formally.

17 Q And when you say less formally, how was it
18 conducted?

19 A We -- I had a need for concepts to come in
20 through my office, know that they were distributed, know who
21 had reviewed them, know what the decision was and go back
22 out through my office to INBIFO as a formal, Let's proceed
23 on this one, or, This one has high priority or that sort of
24 thing. We all had a need for that documentation. It was
25 happening. It just wasn't as formal as I liked it for

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2 organizational purposes and recordkeeping.

3 Q How were records kept of the concepts which
4 were reviewed prior to the formation of the concept review
5 group?

6 A Well, they would come in maybe to different
7 people depending on the nature of the concept. And so I may
8 not have received a copy of it, for instance, and then I
9 need that awareness as I said as part of my job. So it's
10 there. The concepts are there. There may have been a
11 verbal okay over the phone, you know, get going on this one
12 or whatever. Now we've put that into writing.

13 Q When the process was being conducted
14 informally, and even verbally, was there any written record
15 kept of the concepts which were reviewed?

16 A As I say, the concepts would come over. It
17 just -- they wouldn't necessarily all come to me, for
18 instance, so that there was a central place you could go and
19 look at all of them at once.

20 Q When the concepts came to you, was there a
21 written record made of them?

22 A I keep everything that comes to me.

23 Q Do you know if others kept the concepts that
24 came to them for review?

25 A I don't know how other people keep their files.

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2 Philip Morris has policies that govern how we handle our
3 papers.

4 Q Was there any centralized maintenance of the
5 concepts prior to the development of this concept review
6 group?

7 A As I say, no, we didn't have that go to one
8 place and look, which we have now. They were there. Just
9 not in one place.

10 Q The concepts that have come to you for review
11 over the years, do they solely relate to INBIFO research?

12 A In this sense we're talking, yes. Not in the
13 SRRC role.

14 Q Okay. I am just talking right now about in
15 your role as liaison for INBIFO and CRC.

16 A I don't recall.

17 Q If the product integrity group needs work done,
18 they also submit the concept to you; is that correct?

19 A It's a little different. When I say a concept,
20 that's an idea for new research and in maybe some area we
21 haven't looked at before or an extension of an area we've
22 looked at before. Whereas when product integrity needs work
23 done that's generally of -- ordered off of a list kind of
24 thing, we'd like to have this assay run and that assay run
25 or these chemical analyses done.

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2 Q I apologize. You were clear. I confused it.
3 How is the different -- let me start over.

4 How is the process for determining what work
5 R&D PM USA will undertake from what work INBIFO USA -- I
6 mean, INBIFO will undertake?

7 A Because I don't submit projects to R&D PM USA
8 these days because I'm not in the lab, I'm not sure exactly
9 how that works. There is a review process among the senior
10 team, I believe, in Richmond.

11 Q Let me ask you this then. In your present job
12 do you have any responsibility for processing research
13 requests for work requests for PM USA R&D?

14 A Requests for PM USA R&D to do work?

15 Q Yes.

16 A I don't recall any. I was trying to think if
17 there was anything through the SRRC, but I don't recall
18 anything at the moment.

19 Q Let me ask you now about your role on the SRRC.
20 Can you remind me what SRRC stands for?

21 A Scientific research review committee.

22 Q Can you please describe for me your role on
23 this committee?

24 A I'm the secretary or process manager. It's
25 strictly an administrative role. I am the conduit for the

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2 requests that come in, for instance, from somebody outside
3 wanting a grant to do a project, then they would submit a
4 proposal. I make sure that proposal gets circulated to the
5 committee and reviewed and a decision made, but I don't
6 participate in the decision.

7 Q Is the review process of the SRRC limited to
8 outside research requests?

9 A No.

10 Q What other requests would the SRRC entertain?

11 A The charter, I believe, refers to research that
12 PM USA conducts or funds.

13 I take that back. I don't know if it says PM
14 USA or just Philip Morris. I don't know which it is. I'm
15 not sure how broad.

16 Q That is a broad charter. How do you
17 distinguish what SRRC does from the other processes that you
18 described for me for determining what research is conducted
19 by R&D or by INBIFO?

20 A They all eventually meld together. The science
21 review meeting that I mentioned attending each year at
22 INBIFO includes the members of the SRRC.

23 Q Who are the members of the SRRC?

24 A I hope I can get this off the top of my head.
25 Richard Carchman, Richard Cox, Cathy Ellis, Jack Nelson,

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2 Wolf Reininghaus, Helmut Reif, Roger Walk, Allen Castman.

3 If I said eight people, I think that's it.

4 I think I got them all.

5 Q Who is Jack Nelson?

6 A I don't know his formal title these days. He's
7 a vice president.

8 Q Is he an R&D VP?

9 A I don't think so, but I'm not sure how that
10 reporting relationship works.

11 Q Is he part of Philip Morris USA?

12 A Yes.

13 Q Is he in Richmond?

14 A I believe he's primarily in New York.

15 Q What is Allen Castman's title?

16 A Again I'm not sure of the title, but I believe
17 he's basically head of FTR as far as the R&D -- if there's
18 more at FTR, I'm not sure, but I'm talking of the R&D
19 aspects of it.

20 Q And you mentioned a member of the SRRC named
21 Helmut?

22 A Helmut Reif.

23 Q What is Helmut Reif's title?

24 A He's a director. He is located at FTR. He
25 reports to Richard Carchman.

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2 Q What's SRRC's niche in the review process of
3 proposed research?

4 A I'm not sure what you mean.

5 Q That's my terminology. Does SRRC have a unique
6 function in terms of reviewing proposed research?

7 Let me ask it this way. How do you determine
8 which of the three processes that you've described here
9 today proposed research goes through in determining whether
10 to do that research?

11 A Okay. Tell me the three processes, and I'll
12 make sure I'm thinking the right ones.

13 Q This is how I've understood your testimony, and
14 please correct me, add or subtract as appropriate. The
15 first process I understood you to describe was if product
16 integrity needs work done, they submit it to you. The
17 second process I understood was the process which is the
18 review of concepts submitted through the concept review
19 group. And then I understood SRRC to be a third process.
20 Am I misunderstanding something?

21 A No. These are all evolving, I'd say,
22 particularly the latter two. But product integrity pretty
23 much stands alone as I've mentioned because of the nature.
24 They just ask for what they need in the way of testing.
25 There's not a review process of that. Of the two review

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2 processes, concept review occurs first.

3 Q Okay.

4 A And then there's an encompassing review by the
5 SRRC in the course of reviewing everything that's been going
6 on that they are responsible for reviewing.

7 Q Is it accurate to say then that research is
8 submitted to the concept review group first, and if it
9 passes that group, it is then submitted to the SRRC?

10 A It wouldn't necessarily be formally submitted.
11 It would be reviewed by the SRRC. Internal research like
12 we're talking about for the concepts obviously doesn't
13 require specific funding set aside like funding a grant
14 would. So there's a little difference there. It's more a
15 prioritization of work when you're looking at concepts of do
16 we have time to work on this aspect or should we work on
17 something else instead. And that's part of the work
18 process, and then the big picture gets looked at when the
19 SRRC reviews it.

20 Q Do all concepts which are reviewed by the
21 concept review group then submit it to the SRRC?

22 A I think that's what you just asked me. That's
23 what I was answering. And I said not submitted as another
24 review process, but they get reviewed in the course of this
25 annual review. The science meeting at INBIFO, that's one

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2 way that the SRRC is kept abreast of the concepts as they
3 are being put in place and moved ahead.

4 Q The -- does the SRRC have other review roles
5 other than the annual review at INBIFO?

6 A Yes.

7 Q And what would those other review roles be?

8 A As I said, if a proposal comes in from somebody
9 outside requesting funding for work on a project, then it's
10 the SRRC's review that determines whether that project is
11 funded.

12 Q Does the SRRC make the determination of whether
13 other Philip Morris R&D areas should conduct research? And
14 by other, I mean other than INBIFO.

15 A In theory, yes. Again this is evolving, and
16 because I don't submit projects through R&D in Richmond
17 anymore, I'm not sure exactly how all that works. And
18 whether it's similar to the way I just described for INBIFO
19 or whether there may be some differences.

20 Q Does the concept review group have authority to
21 kill a concept?

22 A Comments are collected from everybody in the
23 group. They may have questions on technical aspects of it
24 and ask for further clarification. They may have input
25 based on previous experience that says back in 1936 we tried

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something similar to this and it didn't work, but maybe technology has moved and we can move ahead. Various comments would be made and used as input. Because that is a process within an area, it's not this encompassing thing, Dick Cox has the final. He looks at the comments and the input. He has his perspective from a business sense of prioritization and such and can make that final call. But then the whole thing gets reviewed next go-around.

Q Does SRRC have a funding component of its work?

A Not as the SRRC.

Q How does the funding of SRRC projects work?

A If SRRC says yes, we agree funding of this should occur, then it's entered into the budgeting process by what we would call the sponsor who is usually the person who received the proposal in the first place because maybe somebody on the outside knew this person and submitted it through them or whatever. If the person who originally received it is in an area of expertise much removed from what the proposal is on, then whoever's area of expertise most closely it fits under, they would request funding.

Q Who makes the ultimate determination about whether INBIFO should undertake particular research?

A Well, like I say, that's Dick Cox, but then it's reviewed.

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Q And who would -- and just to clarify. Dick Cox would make the ultimate decision, and Dick Cox's ultimate decision would be based on the input of a particular group; is that correct?

A Uh-huh.

Q And who would be in that particular group?

A Again we haven't had this formal process in place very long, but Cathy Ellis, Richard Carchman, as I said Jacque Zuber.

Q Is that the --

A That's the concept review process.

Q And you said that the concept review group has only been in place for about one year?

A Sometime within a year, I'd say, formally. It's certainly been there informally all along.

Q And when you say all along, does all along include prior to your present role as INBIFO liaison?

A No, I'm strictly speaking from in my tenure.

Q Just wanted to clarify that. When Dick Cox makes the decision to submit a particular project to INBIFO, who reviews it?

MR. WRENN: Asked and answered.

A And I don't know --

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2 BY MS. BRECKENRIDGE:

3 Q I'm sorry. I understood your testimony to be
4 the ultimate decision is made by Dick Cox, and then it is
5 reviewed. Is that not what you testified?

6 A I thought you said when he makes a decision to
7 submit a project, and that's what threw me off because he
8 doesn't submit projects generally.

9 Q That was a poor choice of words. Dick Cox
10 makes the decision that a particular project should be
11 undertaken by INBIFO?

12 A Uh-huh.

13 Q Is that the end of the story? The project gets
14 undertaken by INBIFO?

15 A It depends on the timing of it. It could be
16 undertaken fairly quickly if there's time availability. It
17 may not get started until after the next annual science
18 review in which case it would come up then.

19 Q Is there another level of review between Dick
20 Cox and INBIFO as to whether INBIFO will undertake the work?

21 A No.

22 Let me clarify that. There's not another
23 level, but you heard me mention Cathy Ellis is on the
24 concept review board, so she certainly has input. And her
25 level is as Dick's boss, so she's in the process.

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2 MR. WRENN: Let's take a break.

3
4 (Recess)

5
6 BY MS. BRECKENRIDGE:

7 Q We're back on the record. Dr. Nixon, I just
8 wanted to ask you a few more questions regarding the process
9 of directing work to INBIFO. Your testimony was that if the
10 product integrity group had a project that they wanted to
11 have conducted by INBIFO, that went through you; is that
12 correct?

13 A Yes.

14 Q And are the product integrity group projects
15 that come through you solely for being completed at INBIFO?
16 Does the product integrity group submit any non-INBIFO work
17 to you?

18 A No.

19 Q How do they know that a particular project
20 would be appropriate for INBIFO?

21 A They know INBIFO's capabilities, availability
22 of assays or analyses or whatever, and make a determination
23 as to what types of information they need and ask that those
24 assays or analyses be run on samples through me.

25 Q Is there a clear-cut distinction between the

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2 work that INBIFO conducts for Philip Morris USA and the work
3 that Philip Morris USA R&D conducts?

4 A I'm not sure what you mean by a distinction.

5 Q Is there any entity within Philip Morris USA
6 that conducts the work that INBIFO -- which conducts the
7 work that INBIFO conducts?

8 A I believe that our analytical chemistry
9 department in Richmond has capability for running some of
10 the analytical chemistry assays that INBIFO runs. Or if not
11 the analytical chemistry department, then chemists elsewhere
12 in R&D.

13 Q Is that the only duplication of INBIFO work at
14 Philip Morris USA?

15 A Product testing lab also runs some basic
16 chemistries that I believe are duplicated in the sense of
17 the name of what you're looking for. The method may be
18 different or may be the same.

19 Q What I'm trying to determine is how Philip
20 Morris USA determines which work is sent to INBIFO versus
21 which work is completed by Philip Morris USA R&D. Is there
22 any description that defines which group -- which work is
23 sent where?

24 A At the present time, there is no inhalation
25 capacity at Richmond, and there are no in vitro assays being

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1
2 run in Richmond.

3 Q And, I'm sorry, you said no in vitro assays
4 being conducted in Richmond?

5 A At the present time.

6 Q How long has it been the case that Richmond
7 does not have the inhalation capacity?

8 A I don't know that they have ever had it, but I
9 wasn't working in that area all along, so I'm not sure.

10 Q How long has it been the case that no in vitro
11 assays were being conducted in Richmond?

12 A This is a guess, but I think it was about '90
13 or '91. That department was phased out in Richmond.

14 Q You were working at Philip Morris at the time?

15 A Yes.

16 Q Do you know why the department was phased out?

17 A You're asking for policy decisions that I'm not
18 a part of.

19 Q Did you ever hear anyone discuss why that
20 department was phased out?

21 A I believe in about that time frame, the company
22 went through designation of centers of excellence for a
23 number of things, and various locations were designated as
24 centers of excellence for different types of research.

25 Q Do you know where at Philip Morris Richmond the

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2 in vitro assays were conducted prior to the department being
3 phased out?

4 A I can't remember the name of the -- I think it
5 was called biochemical research division, I believe was the
6 name of the division.

7 Q Were the people in the biochemical research
8 division then moved to INBIFO?

9 A I don't recall anyone from that department
10 being moved.

11 Q I probably should ask. Were the in vitro
12 assays which were being conducted by that department moved
13 to INBIFO or another Philip Morris entity?

14 MR. WRENN: Object to the characterization.

15 A The assays being done in Richmond for testing
16 were duplications of the ones being run at INBIFO, and so
17 therefore instead of running an Ames assay in Richmond or
18 INBIFO, you now run it at INBIFO.

19
20 BY MS. BRECKENRIDGE:

21 Q Do you have certain criteria you use for
22 determining whether suggestions for research submitted by
23 the product integrity group to you should be conducted by
24 INBIFO?

25 A No. They are a group of toxicologists and they

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make a determination of what information they need. And I'm not a toxicologist, so I don't try to second guess their needs.

Q When you say --

A So I just pass on the requests.

Q When you say they are a group of toxicologists, when you say they are, is that the product integrity group?

A Yes.

Q When you receive a request from INBIFO for the product integrity group, do you simply ratify it? Do you simply approve the request?

A No. It's not up to me to approve it or not. As I say, they determine which of the assays available at INBIFO they need information on and a certain sample. And there are numbers of us in Richmond who work together to make sure the samples are prepared appropriately and pretest it to make sure they were made appropriately so we don't send over material that wasn't what we intended to send. We make sure the samples were prepared correctly, and then they are sent. But it's put in as a request. We want you to do this, this and this assays on the samples.

Q So you're not involved in either approving or disapproving the appropriateness of the product integrity group's request; is that correct?

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2 A Yes.

3 Q Who's responsible for sending the samples to
4 INBIFO for the product integrity group?

5 A In most cases if they are, for instance,
6 cigarettes that have been made in R&D, I see to the
7 shipment. I don't physically handle them, but I take care
8 of seeing that the appropriate paperwork is done. If there
9 is a case of a certain chemical being tested, that may be
10 directly sent because we want a clear chain of custody as to
11 who has handled the sample. It just depends on the sample.

12 Q Is your role in handling product integrity
13 group research requests for INBIFO limited to an
14 administrative role?

15 A I sit in on discussions sometimes of plans, but
16 I have no toxicological background other than what I've just
17 picked up, and so I am not a formal part of that decision.
18 It helps if I participate because then I have a better sense
19 of the nature of the work, the scope of the work. It helps
20 with scheduling, those kinds of things.

21 Q Now why does the product integrity group go
22 through you rather than contacting INBIFO directly?

23 A It's just part of the established mechanism to
24 have a single conduit so that there's one person who is
25 aware of the needs flowing one way and the data flowing the

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other and a central repository one direction or the other. And that way if people need to look back at an old report, they know they can come to me and get it. Or if it predates my time, then I can certainly get it from INBIFO.

Q Are there similar conduits for other R&D departments?

A I don't know.

Q I mean, it seems that if the purpose is efficiency and convenience and having a central depository, wouldn't that be true for every R&D department where research is conducted?

A I really don't know the scope or the nature of what else is conducted.

Q Can you think of any other similar conduit for other R&D departments?

A I just don't know enough about what else is going on out there to say.

Q Does the product integrity group ever have direct contact with INBIFO?

A Oh, yes.

Q And what would that direct contact involve?

A If there are questions, specifically there might be more than one protocol to use for an assay, which one do you want. If we haven't answered that in the initial

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2 request or something like that, or if there's a question
3 about a sample, you know, they may have more detail than I
4 have.

5 Q Are you a member of the concept review group?

6 A Not in the sense that I contribute any
7 comments.

8 Q Do you attend the meetings?

9 A Well that's the one that there haven't been
10 any. It's only been recently formed and it's a paper
11 process at this point and I just facilitate the process.

12 Q Are you involved in the evaluation of concepts
13 at all in that role?

14 A I'm not on the -- I send out the concept with a
15 cover memo, but I am not asked for comments. Certainly Dick
16 would welcome them if I chose to make them. Most of the
17 time my expertise is so general that I can't comment on a
18 very specific project and so I couldn't add anything.

19 Q Do you read the projects as you pass them
20 along?

21 A Generally try to glance at them. As I said,
22 usually they are in an area that I can't really get a whole
23 lot out of, so I don't spend much time with them. So I try
24 to be familiar enough so when somebody says -- if they call
25 in their comments instead of writing them in, I can take

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appropriate notes and knowing which project to put them with and that kind of thing so they get kept in the file.

Q Now does the SRRC have regular meetings?

A They are not specifically scheduled. They will get together at INBIFO, and they have had two this year. It varies. We're trying to get it more synchronized with the budget process.

Q When you say they have had two at INBIFO?

A No.

Q I'm sorry.

A Sorry. They have had two SRRC meetings this year, not at INBIFO. That doesn't mean they don't necessarily have to. As I say, we're trying to coordinate more with the budgeting process.

Q And how long has the SRRC been in existence?

A I've only been involved with it for about a year, but it has been longer than that. I'm not sure how much longer.

Q And you are the secretary for the group?

A Yes.

Q And then do you attend every SRRC meeting?

A I have since the one where I became a secretary last year.

Q Do you have responsibility in between meetings

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2 for forwarding information to the group members, the SRRC
3 group members?

4 A Yes. As I said, if proposals come in, then I
5 make sure they get circulated, and the comments come back to
6 me for collection.

7 Q Are there decisions made on proposed projects
8 without meetings?

9 A There can be.

10 Q Are the comments of individual members
11 circulated through you?

12 A The comments are returned to me. I compile
13 them, and then if there's a need for a decision that has to
14 be made before the next scheduled meeting, they go to Cathy
15 Ellis.

16 Q And what form do you compile the comments in?

17 A In general people respond via fax or memo
18 saying, My comments on this such-and-such proposal are, and
19 they just put them there. If somebody does call them in, I
20 take notes, say phone call such-and-such a date and take
21 notes on their response. When I give them to Cathy, I
22 physically give her a copy of all the comments and put a
23 little cover page that says which proposal they are for and
24 who has responded because in some cases someone may be away
25 for an extended time and not have been able to respond. But

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2 in general everybody responds before I give her the file.

3 Q Do you know how this process was handled prior
4 to the formation of the SRRC?

5 A No.

6 Q Can you tell me what criteria the committee
7 uses for accepting or rejecting research proposals?

8 A The charter is in draft form and is -- like I
9 say, it's an evolving process, so it's never formally been
10 issued up to this point. But there are guidelines as to a
11 proposal needs to contain budget and head count and, you
12 know, whatever is involved administratively so they have a
13 concept of the scope of it. It has to have enough
14 scientific description so the folks on the committee can
15 adequately look at it as this person really knows what they
16 are doing and it's a worthy scientific topic. There are
17 guidelines. Like I say, they are still in draft form, and I
18 can't quote what they are.

19 Q Are there research criteria which are used?

20 A I'm not sure what you mean by research
21 criteria.

22 Q Does the SRRC have certain areas of research
23 that they are looking for?

24 A Not to my knowledge. It's like all research,
25 you know, so anything that comes in.

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2 Q When you say all research, does that encompass
3 smoking and health research?

4 A It could.

5 Q Does it encompass new product research?

6 A It could.

7 Q Does it encompass tobacco research?

8 A Yes.

9 Q You know, the agriculture of tobacco?

10 A As far as I know. I don't recall whether any
11 have come that way.

12 Q I'm just trying to get an idea of the scope of
13 the committee's responsibility.

14 A They consider everything that comes in.

15 Q So when they consider everything that comes in,
16 it's everything that comes into the R&D area?

17 A Yes.

18 Q Does it cover anything that's not R&D?

19 A You mean that hasn't come into the R&D area?

20 Q No. What I mean, are there any projects that
21 the SRRC would consider that wouldn't be part of research
22 and development?

23 A Well, I've said they consider proposals from
24 folks outside who are obviously not part of R&D. They are
25 scientists.

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2 Q Does the SRRC consider proposals that might
3 involve the -- a change in the manufacture of cigarettes,
4 for instance, or would that be out of the area of the SRRC?

5 A You're asking for my personal opinion here. To
6 me it would seem to be out of the scope, but I haven't had
7 experience with one like that, so I don't know how that
8 would end up.

9 Q Okay. Do research proposals come in for CRC
10 independent of INBIFO?

11 A I wouldn't say independent because before a
12 concept is written for either one of those places to do,
13 there's probably consultation among those groups over there
14 to make sure the concept is well written and thought out.
15 It may be authored by somebody at CRC.

16 Q Is Wolf Reininghaus involved in the
17 decision-making process as far as projects which will be
18 undertaken by INBIFO?

19 A Yes. He's on the concept review committee.
20 And as I said, prior to a concept even being submitted from
21 INBIFO, I'm sure there's discussion there to make sure it's
22 appropriately done.

23 Q Is all in vivo research for Philip Morris now
24 conducted at CRC, do you know?

25 A No.

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2 Q Where else is in vivo research conducted?

3 A There is a project currently going on at
4 INBIFO.

5 Q And what is the project which is currently
6 going on at INBIFO?

7 A We're getting extremely confidential again. It
8 is in the nature of basic research. It's not product
9 research.

10 Q What does basic research mean?

11 A To just learn about an area as opposed to
12 product research being with a specific aim of learning about
13 a product.

14 Q What is the nature of the research that's going
15 on at INBIFO right now?

16 A It is a lifetime smoke exposure study using
17 rats.

18 Q Do you know what the objective of that project
19 is?

20 A I wouldn't want to try to state it without
21 looking at the project objective.

22 Q Have you seen the project objective?

23 A I'm sure I must have, but it's not -- again I
24 don't thoroughly read and memorize everything that crosses
25 my desk, so.....

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2 Q Do you know who's in charge of that project?

3 A The day-to-day running of it, I believe, is
4 Walter Stinn.

5 Q Do you know who has supervisory responsibility
6 for the project?

7 A It would be one of the bioresearch groups, I
8 believe.

9 Q Do you know why that would be conducted at
10 INBIFO rather than CRC?

11 A I am not by any means familiar with the laws of
12 Germany and Belgium and all that, but I believe because it
13 is not product research that that is a distinction.

14 Q Have you handled the documents for this project
15 in your capacity as the liaison between Philip Morris USA
16 and INBIFO?

17 A I've handled some. I can't say I've had every
18 one of them through my hands.

19 Q Is the project being conducted at the direction
20 of Philip Morris USA R&D?

21 A The planning process, I believe, started before
22 I even got involved in my current position. I'm not sure.
23 And there have been so many people along the way who have
24 contributed scientific expertise into the experimental
25 design. I'm not sure.

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2 Q If the planning process began prior to your
3 tenure in your position, does that mean it started prior to
4 1993?

5 A I believe so. I don't recall it having a
6 distinct beginning in my time.

7 Q Can you tell me which departments in Philip
8 Morris USA are involved in this research project at INBIFO?

9 A Well, nobody's involved at INBIFO because they
10 do the day-to-day running. Nobody from Philip Morris USA.

11 Q I guess that I meant that as a separate clause.
12 Can you tell me who at Philip Morris USA is involved in the
13 project you're testifying about?

14 MR. WRENN: Objection. Asked and answered.
15

16 BY MS. BRECKENRIDGE:

17 Q Are there any Philip Morris departments which
18 have contact with this basic research rat project which is
19 currently going on at INBIFO in Cologne?

20 A There are people in R&D who will be very
21 interested to hear the results when it's finished.

22 Q Who at R&D will be interested to hear the
23 results?

24 A Well, I would think everybody at senior level.
25 Probably Richard Carchman would.

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2 Q Why is everybody so interested to hear the
3 results of this particular study?

4 A Just because it's basic research, and it's
5 always interesting to see how things come out.

6 Q Does basic research create a heightened level
7 of interest at Philip Morris?

8 A No. I think we're a group of scientists who
9 probably went into the area because we had a high degree of
10 curiosity about how things work or what happens when you do
11 this to that or whatever that just makes the outcome of any
12 experiment interesting.

13 Q Have you heard a discussion of what the senior
14 management at Philip Morris R&D hopes to learn from this
15 particular basic research?

16 A No.

17 Q When you start an experiment, my understanding
18 is there is something you're trying to prove or demonstrate.
19 What is Philip Morris trying to prove or demonstrate with
20 this basic research on lifetime exposure to smoke?

21 A Again I wouldn't want to try to formulate that
22 without looking back at the objective for the experiment.

23 Q Do you have the objective for the experiment at
24 your office?

25 A I probably do. If I didn't have it or couldn't

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2 lay my hands on it readily, I could always ask INBIFO to
3 send it to me.

4 Q Is there any particular reason you wouldn't
5 have the documentation of this project?

6 A Well, as I say, it may have started enough
7 prior to -- I just can't remember the timing exactly because
8 I was learning, of course, at the beginning, and I just
9 can't remember exactly how far back my documents go and what
10 form they are in because the objective would only show up in
11 certain ones, not necessarily at the top of every page. I
12 don't know for sure. But I can always ask INBIFO for
13 something like that.

14 Q Has there been other INBIFO research which has
15 been conducted at INBIFO on behalf of Philip Morris since
16 the German laws concerning animal testing have changed in
17 1988?

18 A Is that when they changed?

19 Q I think it is. Maybe you didn't testify to
20 that.

21 A I didn't say that because I'm not sure. And
22 I'm not positive of how that all works.

23 Q I'll strike the year. I may be wrong. Are
24 there other in vivo projects which have taken place at
25 INBIFO in Cologne since the CRC facility was opened in

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1
2 Brussels?

3 A I think there have been some sensory-type
4 projects on frogs. That was mentioned in this document
5 here.

6 Q Is there any other in vivo research being
7 conducted at INBIFO at this time?

8 A I can't think of any, but that doesn't mean
9 there isn't. Nothing comes to mind right now.

10 Q Do you know what types of in vivo research are
11 being conducted at CRC at this time?

12 A I believe right at the moment they are just
13 finishing up one project and getting ready to start another.
14 There's actually nothing running right at the moment.

15 Q What is the project they are finishing up?

16 A They finished an inhalation study.

17 Q Did the inhalation study have a name?

18 A I believe the most recent one was -- it had a
19 title. But it was investigation of some research cigarettes
20 of different constructions, 1R4F and 1R5F, which are
21 University of Kentucky research cigarettes.

22 Q And what project is about to start-up at CRC,
23 do you know?

24 A It will depend on how the sample preparation
25 goes, but the next one to my knowledge should involve

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ingredients.

Q Does the CRC usually run more than one inhalation study at a time?

A They are capable of it. They try not to overlap too much because of personnel limitations.

Q Does the basic research project presently going on at INBIFO have a name?

A It does. I can't quote it.

Q Do you know what the name is?

Can you think of anyone you've circulated or forwarded information on the project to at Philip Morris USA?

A Richard Carchman. I suppose -- well, it gets reviewed when we have the annual science review, so anybody that was there would have heard it and may have chosen to keep their presentation materials or not. As reports come in, I would circulate them. Dick Cox, Cathy Ellis.

Q Is there a projected ending date for the basic research project at INBIFO?

A It's a lifetime study, and I can't remember how long it's been going, but -- I'd have to look back at the protocol. It's a couple years unless there's some issue, if the animals get infection and you'd have to terminate or something like that. But I'd have to look back at the

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protocol.

MS. BRECKENRIDGE: Can we go off the record for a minute?

(Discussion off the record.)

(Luncheon recess)

BY MS. BRECKENRIDGE:

Q Good afternoon, Dr. Nixon. Does all smoking and health research for PM USA go to INBIFO?

A What do you mean smoking and health research?

Q Well, this morning I asked you if smoking and health research would be conducted by INBIFO, and you said yes. What did you mean by that?

MR. WRENN: Objection. Mischaracterizes the testimony.

A I don't remember the context or anything.

BY MS. BRECKENRIDGE:

Q Have you ever heard the term smoking and health used at Philip Morris?

A Yes.

Q And when the term is used at Philip Morris,

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what is meant by that?

A Could refer to literature which is on cigarette smoke and proposes connections to various aspects of health.

Q Is there any smoking and health research conducted at Philip Morris?

MR. WRENN: Objection. Vague. Philip Morris USA?

BY MS. BRECKENRIDGE:

Q Philip Morris USA or INBIFO.

A There is biological research conducted on smoke at INBIFO.

Q Would that research be related to the link between smoking and health?

A I am not a toxicologist. INBIFO conducts assays, biological assays, and often cigarette smoke is their sample. They get results to the assays.

Q Is any similar work conducted at Philip Morris USA presently?

A As I stated, I believe, earlier today, there are no inhalation or in vitro assays being conducted at PM USA in Richmond at this time.

Q In your present position do you get involved in actual scientific research projects?

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1 A Involved in what sense?

2 Q Do you participate in the conducting of the
3 research?
4

5 A No.

6 Q Do you evaluate research in your present job?

7 A As I said in my little job description early
8 on, if there's a question about maybe previous research
9 that's been done at Philip Morris, I may have to get central
10 file searches done and dig back through what was done. Or
11 if there's an issue that's covered in the outside
12 literature, I may have to have outside literature searches
13 done and provide some sort of executive summary-type
14 document for something like that.

15 Q Do you use your biochemistry training in
16 performing those functions in your present job?

17 A Not specifically biochemistry. I consider
18 myself very much a generalist. I've never really gone into
19 depth on anything. But scientific procedure, being able to
20 hopefully recognize a well-planned, well-conducted
21 experiment versus one that had too many variables to
22 appropriately evaluate the results or something like that,
23 that's a fairly standard across whatever scientific
24 discipline you're in. And in general I don't go in any more
25 depth than that sort of thing. Not trying to specifically

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interpret results.

Q When you say your more or less a generalist, when you accomplished your Ph.D. in biochemistry, did you focus on a particular area?

A For a short time.

Q What would -- is focusing on a particular area the right terminology for a Ph.D.? I know it's a very involved, complex degree, but --

A The courses spanned a wide range of material. I did a research project which involved experimentation and writing it up into a dissertation that took, I guess, a year.

Q And what was your research project?

A It was on hemoxygenase modulation.

Q Did you obtain your Ph.D. while you were working at Philip Morris?

A Yes.

Q And did Philip Morris pay for you to obtain your Ph.D.?

A They have a tuition refund program that I took advantage of.

Q Was the one-year research project that you completed to attain your Ph.D. done on behalf of Philip Morris?

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A No. It was done on Philip Morris property because they were able to let me use the laboratory facilities there, which my advisor was thrilled he didn't have to provide me lab space. It was done on PM property, but it was solely under the direction and auspices of MCV and my advisor.

Q And MCV is?

A Medical College of Virginia.

Q Does Philip Morris USA send work to labs other than INBIFO and CRC?

A I believe from time to time there have been contract situations with other labs.

Q Have there been contract situations with other labs since you've been in your present position?

A I haven't had direct dealings with them. I believe there have been, but I don't know any specifics.

Q Dealing with outside labs other than INBIFO or CRC would not be within your job function; is that accurate?

A At this point it's not anything I've had to deal with.

Q Do you know if INBIFO conducts research or work outside of Cologne or Brussels?

A No, I don't believe so.

Q Do you know if INBIFO has ever done any work in

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Bermuda?

A Never heard of it.

Q As part of your present position, are you responsible for the maintenance of documents received from INBIFO?

A Yes. The ones I receive.

Q Which documents do you receive in your position?

A Would you -- that's a big question.

Q Let me ask it this way. Is there a description you can offer here today of the documents you were supposed to receive in your position?

A I could generalize some categories. I won't say that I absolutely have every one in these categories since my tenure because, as I've said, this is an evolving system. And we're trying to get it to a flow through, but that doesn't mean sometimes things don't go directly to someone else.

Q Let me ask you first. How long has it been one of your functions to maintain the documents received from INBIFO?

A It's not spelled out as a function, but I'm a PM USA employee, and I abide under the document retention policies and records management and all that. So therefore

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project-related stuff comes to me. I'm obligated to keep it.

Q Now is there a specific document retention policy for INBIFO?

A I haven't ever seen it. They very well may have one.

(Mr. Lonnie Nunley, Esquire is now present.)

BY MS. BRECKENRIDGE:

Q The document retention policy you're referring to then refers to the PM USA document retention policy?

A It may even be more specific as PM USA R&D. I'm not sure where the scope of it is.

Q Is that what you consider the guidelines for you in handling the INBIFO documents?

A I work from that, and when I have reason to need to deviate from it to facilitate the business because my situation is a little different from somebody who works totally on-site, then I have discussed with and gotten authorization from the people who run that whole function to keep the records the way I do.

Q And who are the people that run that whole function?

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A I guess Marion DeBartelaben is the chief responsible person.

Q What is her title?

A She's a section leader, but I don't know beyond that.

Q Is she in R&D?

A Yes.

Q Okay. I'm sorry. I interrupted you. I had asked you initially if you could outline for me the categories of documents you are supposed to receive in your position.

A Well, there are a number of daily faxes that might have only a line or two of information, When's a certain piece of information going to be ready, or, Here's a preliminary result somebody was asking for or whatever, or, How soon can we do this or that. Very sketchy sort of things that we do by fax because we can't do it by phone with the time difference or whatever. There are more formal reports that come through. If there's been a request for an intermediate report on a project, then that comes to me, usually by fax because usually they are not terribly long, and that's the quickest way.

A final report when a project is completed is actually a bound volume. They come to me in the mail.

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There are a lot of administrative-type things that come to me. Budget and things like that. I am not the sole recipient on a lot of those things. Updates on that kind of thing may go directly to Dick Cox and I get a copy later or I may not get a copy. Certainly there are personnel issues which are held between Wolf Reininghaus and Dick Cox or Cathy Ellis depending on the nature of the issue or whatever that I'm not privy to.

Q Does Dick Cox have a defined area of responsibility for INBIFO?

A As vice president of research, 80 percent of INBIFO's budget, as you saw in your document here, is paid out through PM USA, and that's in Dick's budget. And so to that extent he's responsible for managing that.

Q When you receive the documents you described, what do you do with them?

A Depends on the document. If it's a question that I've asked, maybe something about a schedule or something, I may need -- I may be the only one that needs to see it at that point just for prioritization or whatever. If it's some results that somebody's asked for, We need a preliminary result on this, or whatever, I will pass it in copy to whoever has originally made the request.

As intermediate or final reports come in --

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okay, let's take intermediate first. They would come just to me, and depending on what the project was, for instance, if it was product integrity related, then I would give a copy to Rick Salana. If it's some kind of basic research related, I would pass out copies to usually Cathy Ellis, Richard Carchman, Dick Cox. If it happened to be an area of somebody in a particular expertise or interest in the area of Richmond, pass it to them. Depends on the nature.

Final reports when they come in, if they are on projects of a basic research nature, they go to the same list I told you about for the intermediates. If it's a final report on product integrity type issue, I actually get two copies of the final report and one goes directly to Rick Salana. It comes to my mail package and INBIFO has it checked out to him and I keep the other copy.

Q When you say INBIFO has it checked out to him, what does that mean?

A They put a copy number on the final reports and somehow they have a record that they have assigned copy number 1 to me and copy number 2 to Rick usually. So if we go back, we can see whose copy is whose.

Q Who tracks the copy numbers?

A I don't in Richmond. Like I say, INBIFO is the one that assigns those numbers. I haven't ever looked at

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their database in detail to know exactly how all that works, but.....

Q Is it accurate to say then that's a separate system from any tracking or filing you do in Richmond?

A Yes.

Q Is -- are documents received from CRC independently of this process, independent of this process?

A I have received documents from them. For instance, progress on a study. If they are conducting it, they write up study notes which get distributed to -- INBIFO gets a copy, I get a copy. I don't know where else they go. They have whoever they feel needs it. They would come directly. I believe usually final reports on projects that have primarily been done at CRC would still come through INBIFO because there is an aspect of those studies that has to be done at INBIFO. Further evaluation that CRC is not equipped to do. So it's really a joint project even though the actual experimental work for the most part might have been done at CRC. And so the report is written and signed off on, and there are people at both places involved. So I think physically the mail comes from INBIFO.

Q Is it safe to say that the primary reporting route for CRC is to INBIFO?

A I don't know. I have not sat over there and

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2 watched where they send other things, so I'm not sure where
3 else they send it. But like I say, they do send me things
4 directly if I've asked to be included on the list for
5 project monitoring or whatever.

6 Q Is there a particular category of documents --
7 I'm sorry. Let me start over. Is there a particular
8 category of project that you would want to be included on
9 the distribution list for?

10 A Once I saw what their little project status
11 update reports look like. I've asked to be included on
12 those regularly.

13 Q What is the project status report update?

14 A It's just like a daily diary of how an
15 experiment is running. For instance, the smoking machine
16 broke down for ten minutes today, so we had to run ten
17 minutes extra to make up the time. Preliminary
18 observations. Early chemical data from the atmosphere or --

19 Q Are those -- I'm sorry. Did I interrupt you?

20 A Huh-uh.

21 Q Are those updates actually printed out daily?

22 A I don't know that they are done absolutely
23 daily because sometimes they are so busy they might
24 accumulate several days' worth. They certainly report
25 anything significant from each day whether it was actually

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written and printed that day. And often I would get a clump of often three or four days' work because I'm not on the site having to deal with making corrections if the test atmosphere has drifted. I don't have to do that kind of thing, so I don't need it on that timely basis. It's a part of -- they are GLP certified also, and they have to keep those kind of records.

Q So you receive these updates in Richmond?

A Yes.

Q Do you send them on to anyone else at Richmond?

A Not usually. They are fairly bulky for the amount of information that's there. And so I'll just -- if there was a particular issue, just kind of mention it around to folks just so if later on the study indicates that that issue was causing a problem or whatever, they can be aware of it. They certainly are free to see it if they want to, but most people don't want extra pieces of paper.

Q Once you've distributed the documents which you receive from INBIFO, what do you do with them?

A If I am distributing it as a copy, for instance, an intermediate report that's small and I can easily copy it, I keep a copy. And I don't know what the other people do. It's up to them to keep it or not. I'm the primary recipient, and so therefore it's my

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2 responsibility to keep it. For a final report, I circulate
3 it and ask that it be returned to me when people are
4 finished reading it because it's too bulky to copy.

5 Q Is there any documents which you receive that
6 you destroy?

7 A The only things would be again in connection
8 with our document record management, document retention
9 policy, and they would be strictly business related, like
10 somebody's airline flights or that sort of thing. I keep
11 budget information according to our policies which are
12 current year plus however many. It's all written down. But
13 anything that's project related is basically in my office
14 because everything has come under disposal suspension one
15 way or another with various lawsuits. I keep everything
16 that's project related.

17 Q Now I'd like to ask you several questions about
18 how you keep the documents. Are you personally responsible
19 for maintaining the files of these documents?

20 A Yes.

21 Q And how are they filed?

22 A Right now they are in boxes because I'm moving
23 my office. They are filed in general under a project in a
24 folder. That holds through usually the intermediate report.
25 At that point the final report is the bound volume, as I

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said, and that's too bulky to stick in a manila folder in a file drawer. So I have a final cabinet that's nothing but final reports which are arranged in numerical order of project number so they can all be accessed quickly by their spines that way. They are not with their respective project folder.

Q Are your files independent of the R&D files?

A Not completely. I operate totally under the records management central file procedure for SRRC documents. That means they get a cover page with the submission that helps get it keyed into the system there. The same way for the concept review system. For the daily work with INBIFO and all these projects, I do not send everything to central file with a cover sheet. As I've said, I changed numerous faxes every day with little bits of information, and it's too unwieldy for me to deal with typing a cover page for each one and submitting it. So I have had discussions with Marion DeBartelaben, and we have agreed that I am the central file, if you will, for R&D for INBIFO documents. They are available for whoever needs them. If I ever have stuck one in the wrong folder, or in some cases with the numerous collections we've had over the years for legal purposes they have gotten stuck back in the wrong place or stapled and I can't lay my hands right on it,

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I can always call INBIFO and they can retrieve it instantly and fax it back or whatever.

Q What is the central filing procedure?

A I couldn't outline the whole thing. There are different categories. The documents go in, and all that is documented.

Q I'm sorry. Maybe this will help be a guideline for what I'm trying to figure out. You mentioned a submission, a cover sheet. What would that be?

A It's -- it has who the document is to, who it was from, the date, an abstract, what category of records management it's in, confidential or trade secret or whatever. It's just a quick summary document.

Q What is the abstract?

A That's a term for a very top line summary of a document.

Q Is that separate from the keyword indexing?

A Yes. In my mind it is. An abstract is like an intro, a paragraph that tells you what an entire document is. And keywords are words that refer to key points in a document.

Q Does the cover sheet -- does Philip Morris Research use a keyword system for the filing of its documents?

A I am not in central file and haven't ever

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worked there. I'm not sure how they work there. I'm not sure if there is a keyword category on these sheets. I don't recall one, so I'm not sure how that works.

Q Have you ever dealt with Philip Morris or any Philip Morris keyword system?

A I've never heard of a keyword system.

Q Are you familiar with any system by which the R&D central files categorizes documents based on words?

A I don't know how they do it. I just send them down. Or if I need to retrieve old ones from the past, I tell them what area I'm looking for, and they can retrieve it for me. But I don't know how all that works.

Q Do you know how central files indexes its files?

A No.

Q Do you know if it's electronic?

A I believe there is some aspect of electronic to it, but again I don't know how that works or how complete it is or any of that.

Q Do you know who's in charge of central files for R&D?

A I believe it's Marion DeBartelaben.

Q Okay. Now within the documents which you maintain which are the -- are they only the INBIFO and CRC

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2 documents that you maintain?

3 A No. As I said, I have the SRRC documents.
4 Concept review can cover places, other people.

5 Q Now are you saying that the SRRC and the
6 concept review documents do not make it into the central
7 file system?

8 A No, I believe I just said they do. They are
9 not so numerous, and every piece is a big piece of
10 information. That all goes in with a cover sheet. It's
11 these little daily faxes and this stuff that gets unwieldy
12 to put a cover sheet on each one and send it in when the
13 cover sheet would take longer to type than the original
14 document even had.

15 Q Are the documents maintained by you indexed in
16 any way?

17 A I keep them in file folders by projects.

18 Q Do you have an index which you can either print
19 out or photocopy for the documents?

20 A I am working on getting one. I don't have it
21 working and in place at this moment. I'm trying to get one
22 set.

23 Q Are you working on an electronic index?

24 A It would be one, yes. It would not be for
25 every piece of paper I have, but like the final reports and

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the intermediates.

Q Do you have an assistant?

A No.

Q Are there documents located at INBIFO which you don't receive copies of?

A I'm sure there are, yes.

Q Do you know who's responsible at INBIFO for maintaining their files?

A No, I don't know.

Q Are there any restrictions to the access of INBIFO documents at Philip Morris USA?

A Not that I have encountered.

Q Have you ever heard of any restrictions on contact between Philip Morris USA employees and INBIFO?

A In the time I've been working there, there has not been any. It's been very open. I've handed over names and phone numbers to lots of people who have needed to talk to folks there.

Q Do you track the distribution of reports?

What I'm trying to ask is, do you keep a list of who you've sent reports to?

A I try to, by hand. I can't say I've done a fabulous job of that. If and when I can ever get up and running with this electronic version, that would be a part

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of it. But it's not there yet.

Q Other than your files, where would INBIFO documents be kept at Philip Morris USA?

A There would be -- the copies that I've distributed to whoever needed them at the time. As I've mentioned, you know, my general sort of distribution areas that I go to, those people may or may not keep them because as I said, I'm the primary recipient, and it's my responsibility to keep it. It's not theirs. If they choose to read and not keep it, I have the copy. As I said, there would certainly be things that would come from INBIFO that I have no business with or don't need, personnel-related things or maybe certain aspects of the budget or whatever that would come to somebody else either first or exclusively. I may or may not end up with a copy of that.

Q Does the legal department keep any INBIFO documents, do you know?

A I don't know what they do.

Q Do you know what the INBIFO budget for 1997 is?

A I'd have to guess at the number because I don't remember.

Q What would your guess be?

A I want to say Philip Morris USA's part of it was around -- this would be INBIFO and CRC together. I

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2 don't have it broken out. I think maybe around 15, 16
3 million.

4 Q Do you have an idea of the percentage for
5 INBIFO or CRC? You just said you didn't have --

6 A They said it's broken down and it's in their
7 currencies and then they put it back together and I haven't
8 tried to go through that.

9 Q Are the CRC documents managed any differently
10 than the INBIFO documents in Richmond?

11 A I was going to say, I don't do anything
12 differently. I distribute them as I've told you depending
13 on what they are.

14 Q Are they maintained in the same files?

15 A Yes. They go with whatever project they come
16 in on.

17 Q And you don't have any information concerning
18 how CRC manages their documents in Brussels?

19 A No.

20 Q Do you know if they manage their own documents
21 as opposed to having INBIFO maintain their documents?

22 A No. I don't know.

23
24 (Mr. Nunley departed.)
25

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2 BY MS. BRECKENRIDGE:

3 Q Do you know whether CRC has its own document
4 retention schedule?

5 A I don't know.

6 Q I'd like to show you two documents I'll have
7 our court reporter mark as exhibits. And I have a limited
8 area of questions for you on these documents.

9
10 (NIXON EXHIBIT NOS. 3 & 4
11 were marked for identification.)
12

13 BY MS. BRECKENRIDGE:

14 Q Feel free to read the whole document if you
15 like, but -- and take as long as you like. My questions
16 really have to do with the first page of the documents.

17 A Because these documents predate my time at
18 Philip Morris and are not in an area I know anything about,
19 would it be possible for me to hear your question before I
20 spend a lot of time?

21 Q That's probably a good way because I have very
22 limited questions which relate to the filings of these
23 documents because I do realize that they predate your time.
24 They do not mention you. They are not directed to you. I'd
25 like to ask you about the bar codes which appear on each.

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2 Is that part of the Philip Morris filing system?

3 A It's a little hard to tell from a copy, but I
4 believe that would have been placed there by central file
5 when I ordered this document to have a copy sent to me.
6 They somehow check it out to me using that number, and
7 that's why they write my name down there to say that copy
8 went to me.

9 Q Does it look like a Philip Morris central file
10 bar code?

11 A The bar code looks like a bar code to me. But
12 that's the general format is that there's -- if there were
13 an original, it would have -- an original copy would have a
14 sticky on it with the bar code, and my name would be written
15 underneath.

16 Q Now when you refer to central files, is that
17 R&D central files?

18 A Yes.

19 Q And do you have any recollection of requesting
20 either of these documents?

21 A I don't recall specifically. I would guess
22 that it was in answer to a question about possibly what were
23 the nature of the things that Bill Dunn wrote, for instance.
24 And I would have provided some sort of bulletized summary of
25 maybe just title or something like that. It could have been

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2 in answer to a specific research area question. These are
3 both Bill Dunn's documents, that's why I wondered if it
4 referred to him. It could have been that sort of thing.
5 Not particularly for content from my perspective, but from a
6 historical, R&D needs to recall to itself what we did in a
7 certain area or what a certain person did or whatever.

8 Q Who would you field that type of inquiry from?

9 A Could have been from Cathy Ellis, or I would
10 guess this may be long enough ago it might have been Dick
11 Cox, but it might have been before he was my boss. I don't
12 know. Somebody like that maybe.

13 Q Is that part of your function in your present
14 job to retrieve documents from central files?

15 A As I said at the beginning talking about my job
16 function, sometimes a question comes up. What have we done
17 in the past in a certain research area, or, what's been done
18 in outside literature; that would depend on where the search
19 would be done. I don't do the searching. I tell central
20 file the nature of the question, and they determine how to
21 retrieve the documents. They tell me which document
22 numbers -- this is a document number on the second one, this
23 C72 whatever, it's kind of hard to read. But that's the
24 document number from central file. They tell me what's
25 available, and I may pick among what I need to pull out and

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1
2 get copies made like this or not.

3 Q When you say you would pick from what was
4 available, would they provide you with a list of all the
5 hits, so to speak, for what you're seeking?

6 A They can do that. And depending on if it has
7 abstracts with it or not, I can tell more clearly without
8 maybe having to get the document whether it's relevant to my
9 question or not or whatever.

10 Q Does the fact that your name is written
11 underneath the bar code on these particular copies indicate
12 that these are from your files?

13 A I believe so.

14 Q Does the notation Internal File above the bar
15 code on Exhibit 3 mean anything to you?

16 A No.

17 Q Is that your handwriting?

18 A No. My assumption would be it was on the
19 document as central file had it, and it just got copied.
20 They copied the document.

21 MS. BRECKENRIDGE: Could we go off the record
22 for a minute, please?

23

24 (Discussion off the record.)

25

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BY MS. BRECKENRIDGE:

Q Dr. Nixon, do you know if you asked R&D Central files if they could do a search for all INBIFO documents if they would be able to do that?

A As I said, I don't know how their system works, but I don't think so.

Q If you provided them with a list of all of the people who had worked at INBIFO over the years, would they be able to do a search based on that?

A I have no idea.

Q Do you know if INBIFO is a keyword in the filing system?

A Again I don't know even if they have one. I don't know how that works.

Q Do you recall if you were ever involved in a document collection effort of all the documents that may have been created by Vic DeNoble?

A A collection?

Q Were you ever asked to gather all of Dr. DeNoble's documents?

A I have been asked to maybe do some sort of summary as I was talking about. Like one of these could have referred to that had something to do with DeNoble, but I can't remember whether it was all or some aspect or what.

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Q Do you recall who you did that search for?

A No. It would have been one of the people I mentioned earlier, I think, but.....

Q Do you recall when that was?

A No.

MS. BRECKENRIDGE: I'd like to ask the court reporter to mark the next exhibit.

(NIXON EXHIBIT NO. 5
was marked for identification.)

BY MS. BRECKENRIDGE:

Q I'd like to ask to you take a few minutes to read this document through.

Have you read the document?

A I've read over it. Not any more time than we just took.

Q You're welcome to take more time, or as I'm asking you questions about the document, if you need more time, just let me know and take it. I do want to ask you several questions about this document. This appears to be a fax addressed to you, Dr. Gerry Nixon, from Dr. Reininghaus. Do you recall receiving this fax?

A Not specifically. As I say, I get lots of them

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every day.

Q Does this look like an INBIFO fax to you?

A Yes.

Q Do you recall the topic of ideal smoke?

A Yes.

Q What is ideal smoke?

A This was a program in R&D a few years ago. It had a mission and objective, but it's been a long time since I've looked at that. I couldn't quote it by any means.

Q Can you generally characterize or describe the program?

A Again without looking back at my documentation, I don't know. I was more of a conduit on this one. Like I think I've mentioned earlier, a lot of things I get, it's at somebody else's request, and just because it's directed back to me is because I asked the question, but it was probably prompted by somebody else. And this very well could have been in response to a question from perhaps Jerry Widby who was in charge of that ideal smoke program.

Q What department was Jerry Widby in when he was in charge of the ideal smoke program?

A R&D.

Q Was he within a particular department of R&D?

A I don't recall.

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Q Was it a Philip Morris USA R&D project as opposed to an INBIFO project?

A I think it was a program. Not a specific project. And I believe it was PM USA.

Q How does Philip Morris distinguish between programs and projects?

A We've gone through a lot of terminology changes over the years. I'd say program is more encompassing than project in general in the senses I remember it.

Q Do you recall any of the objectives of the ideal smoke project at all?

A Like I say, there was definitely a mission and some sort of statement, but without looking back, I wouldn't know what it said right now.

Q As we sit here today, can you think of a description of what ideal smoke would be?

A Not really. I just --

Q Would ideal smoke be smoke that had no health side effects for human smokers?

A I don't know. I mean, I just don't have a definition for it.

Q I'd like to refer you to the last line of the letter before the signature. And that sentence, those sentences read, We hope that our input will contribute to

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2 your brainstorming; It would be interesting to learn about
3 the outcome. Do you know what brainstorming Dr. Reininghaus
4 was referring to?

5 A Without looking back in context of other
6 documents at this time, I don't know. It could have been --
7 I don't know whether this occurred maybe at the beginning of
8 the whole program of when we're trying to define what ideal
9 smoke is, if that was it or where it fell. I just don't
10 remember a chronology.

11 Q Does reading about, quote, your brainstorming,
12 end quote, change your recollection of your involvement on
13 this project?

14 A No. I remember again being -- sitting in on
15 some of that, you know, as it was happening, but again it
16 was listening for where would INBIFO input be useful and can
17 they contribute in this area. And then I'd relay questions.

18 Q Is your recollection of your involvement in the
19 project that you were a coordinator of information? Is that
20 a fair way to state it?

21 A That almost puts more on it than I think I was.
22 I was a conveyor of information as it was requested and
23 received. I don't think I really did any coordination.

24 Q Do you recall who you were conveying
25 information to?

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2 A Well, Jerry Widby was, as I say, the program
3 leader.

4 Q I'm sorry. You did say that. Do you recall
5 eliciting information from anyone other than Wolf
6 Reininghaus on this ideal smoke project?

7 A No.

8 Q The body of the letter talks about undesirable
9 smoke properties and desirable smoke components. The first
10 item under undesirable smoke properties is adverse
11 biological activities. Does the term adverse biological
12 activities have meaning to you?

13 A Well, I don't want to again put context around
14 this. And this is what Wolf wrote. I didn't write it. But
15 he's written some things underneath which I suppose is how
16 he's defining it as he used it.

17 Q Actually you're right. He states that this
18 encompasses any activities which lead to irreversible
19 effects, and he gives some examples. Is that your
20 understanding of adverse biological activities?

21 A I'm not a toxicologist. I can't really agree
22 or disagree as to its completeness or accuracy.

23 Q With your education and your training at Philip
24 Morris and your job experience at Philip Morris, are you
25 qualified to assess biological activity, adverse or

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otherwise?

A Not formally, no.

Q Informally?

A I can only give a very cursory evaluation based on conclusions that somebody else has drawn. I wouldn't be able to say whether those conclusions were drawn appropriately or not.

Q Can you conclude reading Wolf Reininghaus's statement here whether the statement concerning adverse biological activities is accurate or not?

A I think I just said I can't say. I'm not a toxicologist. Whether it's complete or accurate.

Q When you read Item Number 1, isn't Wolf Reininghaus concluding that cigarette smoke is harmful because it leads to irreversible effects?

MR. WRENN: Objection. The document speaks for itself. Lacks foundation. Calls for speculation.

A I can't do any more than read what he's got here.

BY MS. BRECKENRIDGE:

Q When you read the words he has here, is there any conclusion that you can draw other than the fact that cigarette smoke leads to irreversible effects?

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2 MR. WRENN: Objection. Leading and
3 argumentative. Lacks foundation.

4 A That's not how he stated it. And again I can't
5 do anything but read back what he has here.

6
7 BY MS. BRECKENRIDGE:

8 Q Do you have an understanding of the term
9 irritancy as used in this context?

10 A Again I don't know -- I just sort of have a
11 sense of it, but it's hard to put words around. I don't
12 have a definition for it. In context it appears to be a
13 sensory term as he's using it.

14 Q On the second page of Wolf Reininghaus's
15 letter, he outlines desirable components. And the first
16 desirable component identified includes nicotine as a
17 component. Would you say that nicotine is essential to
18 selling cigarettes?

19 MR. WRENN: Objection. Lacks foundation.
20 Calls for speculation.

21 A I'm not a flavor person. I'm not a chemist. I
22 don't know. I don't know that area.

23
24 BY MS. BRECKENRIDGE:

25 Q Do you have any experience in that area at all?

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2 A I've never worked in cigarette development or
3 marketing or any of those areas.

4 Q Have you overheard discussions of this at
5 Philip Morris?

6 A Of?

7 Q Whether nicotine is essential to the sale of
8 cigarettes.

9 A I guess the only thing I've heard is that our
10 attempt to market a very low or nicotine-free cigarette was
11 totally unsuccessful.

12
13 (Discussion off the record.)

14
15 (NIXON EXHIBIT NO. 6
16 was marked for identification.)

17
18 BY MS. BRECKENRIDGE:

19 Q Have you had a chance to read Exhibit 6?

20 A Yes.

21 Q This is a letter dated August 15, 1994 to you,
22 Dr. Gerry Nixon, from Wolf Reininghaus. Do you recall
23 receiving this document?

24 MR. WRENN: Let the record reflect, I believe
25 it may have been entitled telefax.

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2 BY MS. BRECKENRIDGE:

3 Q Excuse me. It is a telefax.

4 A As I said, I've received so many faxes and send
5 so many, I don't recall this particular one.

6 Q Does it look like a telefax from INBIFO to you?

7 A Yes.

8 Q The fax refers to a current activity list for
9 PM Richmond and PM Neuchatel containing the project numbers
10 and abbreviated titles for all projects active in 1994. Did
11 I read that accurately?

12 A I believe so.

13 Q Does INBIFO generate a current activity list on
14 a regular basis?

15 A Not to my knowledge.

16 Q Are they able to generate a current activity
17 list on demand?

18 A Yes.

19 Q Do you recall if a list was attached to this
20 fax when you received it?

21 A I don't recall, but it says please find
22 attached, Attachment three pages. I'm guessing that there
23 was.

24 Q In the second paragraph there's a reference to
25 project numbers. What does project numbers refer to, do you

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1
2 know?

3 A As I said earlier, INBIFC assigns a project
4 number to every little aspect of work they do.

5 Q Wolf Reininghaus writes that Dr. -- is it
6 Houghton?

7 A Houghton.

8 Q Houghton. That the information was sent for
9 Dr. Houghton's use. Do you recall why Dr. Houghton
10 requested this information?

11 A No.

12 Q Do you recall why this information was being
13 collected in August 1994?

14 A No.

15 Q Do you recall at whose direction the
16 information was being collected?

17 A No.

18 Q And in the second paragraph I wanted to ask you
19 about the term spurious activity. Do you know what that
20 means?

21 A I would have to speculate. I don't recall the
22 context.

23 Q What would you --

24 A He refers to mistyped project numbers which may
25 mean there would be a project number we hadn't heard of and

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2 we would wonder what it was. But that's speculation based
3 on this context only.

4 MS. BRECKENRIDGE: I'd like to ask the court
5 reporter to mark the next two exhibits.

6
7 (NIXON EXHIBIT NOS. 7 & 8
8 were marked for identification.)
9

10 BY MS. BRECKENRIDGE:

11 Q Have you had a chance to read these two?

12 A As well as I can. It's a very poor copy.

13 Q I'm sorry. I realize Exhibit 7 is a poor copy.
14 It's the best copy we were able to get. Exhibit 7 appears
15 to be a memo from you, Dr. Nixon, to Dr. Haussmann, CCing
16 Dr. Reininghaus on July 19, 1994. Do you recall sending
17 this memorandum?

18 A As I keep saying, I send and receive so many,
19 no. Not particularly.

20 Q Does this look like a memorandum that you would
21 send?

22 A It looks like I probably would have faxed it
23 over.

24 Q Is there any reason to believe you did not
25 create this memorandum?

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2 A No.

3 Q Do you recall why you were gathering this
4 information?

5 Actually let me withdraw that question and ask
6 another question. The memorandum refers to a Cathy would
7 like various categories of information. Would that be Cathy
8 Ellis?

9 A I believe so.

10 Q Do you recall what Cathy Ellis was collecting
11 the information for?

12 A No, not out of context and time frame. I'd
13 have to look back at what was going on at that time.

14 Q But as you look at this document, it doesn't
15 make a particular impression on you as far as what the
16 information was being collected for?

17 A My first impression would be it was one of the
18 various collections of documents for legal purposes.

19 Q Paragraph 3 in Exhibit 7 refers to adding two
20 small URSUS studies. Do you know what those studies are or
21 were?

22 A That's another phase of Beta.

23 Q Has that phase of Beta been completed at this
24 time?

25 A I'd have to check back and see whether we

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2 received all final reports on all aspects of it.

3 Q Do you know what aspect of Beta that dealt
4 with, the URSUS project?

5 A It could have been a number of them that were
6 under that umbrella.

7 Q In Paragraph 4, there is a -- an inquiry
8 concerning the number of pages and time involved to gather
9 and copy all work on nicotine, nicotine analogs, and I
10 believe that word is cotinine. Do you recall why this
11 information was being collected?

12 A That's what I was referring to when I said my
13 first impression would be, because we were being requested
14 to turn over all documents of a certain nature for various
15 lawsuits or whatever. That was my impression there.

16 Q Farther down in the paragraph you write, Please
17 do not -- let me start over. Farther down on the paragraph
18 you write, Please do not begin copying the documents as very
19 specific instructions for this procedure will follow
20 shortly. What were those very specific instructions?

21 A I'm sure I have a copy of them back at work.
22 And it would have been how they had to be numbered, how many
23 copies of each, what kind of paper they had to be on, that
24 kind of thing. I believe. If I'm recalling correctly that
25 this was for a document collection.

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Q Turning to Exhibit 8, Exhibit 8 appears to be a telefax from INBIFO, Dr. Haussmann to you, Dr. Gerry Nixon regarding the volume and time involved to retrieve and copy all nicotine-related work. Do you recall receiving this particular telefax?

A Not particularly.

Q Do you recall a project which involved retrieving and copying all nicotine-related work?

A As I say, I believe that could have been the topic for one of the collections that was requested.

Q Do you know if this work was ever all collected in one place?

A I can't speak for INBIFO particularly. My documents from INBIFO have been collected numerous times on many occasions, so I don't know what happened to this specifically.

MR. WRENN: Let's take a break.

(Recess)

(NIXON EXHIBIT NO. 9
was marked for identification.)

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BY MS. BRECKENRIDGE:

Q Okay. We're back on the record and I have handed to the court reporter for marking and she has now handed to you a copy of Nixon Exhibit 9 which I'd like to have you take a minute to read.

A I've glanced over it. If I could hear your questions, that might help.

Q Okay. Well, I'll get started, and then if you feel you need to read it more carefully, just let me know.

A Thank you.

Q What this document appears to be is -- at least the cover sheet is a fax cover sheet to Dr. F. Gullotta and Dr. G. Schaeppers?

A Yes.

Q S-C-H-A-E-P-E-R. At INBIFO from you Dr. Gerry Nixon dated July 6, 1994. And the message on the bottom of what I call the fax sheet is Cathy Ellis is asking for comments today, thanks, Gerry. Do you recall seeing this document before?

A Like so many, it certainly looks like it went through my hands, but not specifically.

Q Do you have any reason to believe that this isn't a document that passed through your hands?

A No.

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Q The attached document is a -- what is entitled a draft, July 7, 1994, Privileged and Confidential, Comprehensive Statement on Ammonia Compounds, Philip Morris USA. Is that accurate?

A You just read the title, yes.

Q Do you recall this draft statement?

A I recall having seen it.

Q Did you participate in the drafting of the statement?

A No, I don't believe so. I don't have any knowledge or expertise in this area.

Q That was my next question. During your career at Philip Morris, have you had any involvement in ammonia technology or the use of ammonia?

A No.

Q At all?

A No.

Q Do you have any reason to believe that you would have participated in any way in the drafting of this statement?

A No. My recollection of this would be as it states at the bottom, Cathy needed some comments on it. She told me who to address it to at INBIFO, and I sent it over to get their comments.

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Q I'm sorry.

A Strictly as a conduit.

Q That was my next question. Do you remember if you had any role in the revision of this document?

A No. As I say, I don't have anything that I could have contributed in this area.

Q Can you recall as you sit here today whether Dr. Gullotta or Dr. Schaeper forwarded any comments or revisions to you on this document?

A I don't recall because I said Cathy was asking for comments. They could have sent them directly to her. I don't remember whether they came through me or not. Again I would have just passed them on if they did.

Q As you sit here today, do you have any knowledge of the fate of this document?

A No.

Q And by fate, I guess I mean what happened to this draft statement after you faxed it to the individuals listed.

A Well, per the instructions on the front sheet, I'm assuming it was given to Drs. Gullotta and Schaeper to review and comment. I can't say where those comments are.

Q Do you know if this draft comprehensive statement on ammonia compounds was ever officially issued by

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Philip Morris?

A I don't know.

(NIXON EXHIBIT NO. 10
was marked for identification.)

BY MS. BRECKENRIDGE:

Q Dr. Nixon, I'd like to have you take a look at Nixon Exhibit Number 10. And before you start looking at it, I will specifically direct your attention to the last page of what I call the memorandum which would be Page 4996. And it reflects that G. Nixon was copied on this document. And then if I could just ask you to take a look at it for as long as you like.

A I seem to have two copies of part of it.

Q That's what happens when lawyers get loose with the photocopying machine on a Sunday. It's also why all of the exhibits are in book form.

A Once again can I ask that you ask a question so I can see whether I need to read it more thoroughly.

Q Certainly. And then just let me know if you need a more careful reading after I ask my question. Do you recognize this -- let me start over. Excuse me.

This appears to be a Philip Morris USA

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interoffice correspondence to C. Ellis from R. R. Izac,
I-Z-A-C, regarding Project Wide dated February 5, 1993.
Have you ever seen this memorandum before?

A I believe so certainly, because I was copied as
a CC. I should have gotten a copy of it.

Q Who is R. R. Izac?

A Richard Izac.

Q Richard Izac. And is he employed by Philip
Morris?

A Yes.

Q Is he currently employed by Philip Morris?

A Yes.

Q Do you know what department Mr. Izac was in in
February 1993?

A I know he was in R&D. I can't be any more
specific than that.

Q Would the C. Ellis who is the addressee be
Cathy Ellis?

A I believe so.

Q Do you know what Project Wide is?

A In general terms.

Q Yes. Please.

A In general terms is all I know is what I'm
saying. I believe it had to do with varying cigarette

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circumference.

Q What was your involvement with Project Wide, if any?

A I was going to say, if you look at the date of February '93, that was like a month after I started my current position, and so this work would have been done long before then, I believe. I probably just received a copy for the files.

Q Was it the practice or is it the practice of R&D to copy you on correspondence or documents they believe you should have for the file?

A Can you say that again?

Q Is it the practice in R&D to CC you on correspondence or documents you should have for your files?

A I would guess that general practice is to make people aware of information they need to be aware of.

Q Would it be unusual to have you CCd on a memorandum for a project with which you weren't involved?

A I can't say usual or unusual. I believe in this case it's because there were some aspects of Project Wide which were done at INBIFO. I don't believe this -- I can't tell from this where this was done without more thorough reading, but there were aspects of it, I believe, at INBIFO.

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Q Do you know what aspects of Project Wide were conducted at INBIFO?

A I'd have to look back in my file to see, but -- I can't tell. I'd have to read this more carefully. Just one minute.

Yes. I believe I see here a reference -- it's a very difficult page to read, but on Page 4995. It's Page Number 3 of the text.

Q Yes.

A There is reference to -- the paragraph before the conclusions paragraph references some Ames activity results. The S/M activity, that's Ames activity. The paragraph starts and then it discusses the results and I believe that is Footnote Number 7. It's very blurred, but Footnote Number 7 refers to Thomas Meisgea, Intermediate Report number, and that's an INBIFO number, so I believe that aspect of the work was done there.

Q At any time did you have an involvement in Project Wide other than being the conduit for information such as this memorandum?

A No.

(NIXON EXHIBIT NO. 11
was marked for identification.)

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BY MS. BRECKENRIDGE:

Q Next exhibit.

A I think I've looked it over enough to at least start.

Q Let me know if you need to read it more carefully. Nixon Exhibit Number 11 appears to be a Philip Morris interoffice correspondence to C, period, Ellis from D Leyden, Subject, Smoke Chemistry Analytical Methods Development dated February 24, 1994. And you may have noticed on Page 4 you were copied on this memorandum. Do you recall seeing this memorandum?

A Like all the others, it certainly seems reasonable I did being on the copy list, but I don't recall it specifically.

Q Let me ask you first of all whether you were personally involved in smoke chemistry analytical methods development during this time period?

A No.

Q Can you say why you would have been copied on this memorandum?

A Well, since I didn't send it out, I can't say for sure, but my assumption would be there is mention of INBIFO capabilities in here, and it would be appropriate to have this in the INBIFO files.

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Q In the first paragraph of the memorandum, there is a reference to a list of compounds published by Dietrich Hoffmann. Are you familiar with who Dietrich Hoffmann is?

A Just in the sense I've heard his name a lot. I don't know his area of expertise or location at the moment.

Q Do you know if Dietrich Hoffmann and his list of compounds are a source that Philip Morris considers particularly reliable?

A I'm not a chemist. I wouldn't know how to answer that.

Q A little further down in the same paragraph, there is a reference to the smoke research group in the product research division. Are you familiar with the smoke research group?

A I think I've heard the name.

Q Do you know what the product research division is?

A It's a division in the research directorate -- or I don't know if you call it a directorate now that we have a VP, but the research area.

Q Is the research area different from R&D?

A It's a part of R&D.

Q Do you know if the smoke research group exists today?

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1 A I have no idea.

2 Q Do you know what their function was in February
3 1994?
4

5 A No.

6 Q Do you know if any particular department which
7 does exist today has taken over the work of the smoke
8 research group?

9 A No.

10 Q Does the product research division exist today
11 to your knowledge?

12 A I believe it's still called that, yes.

13 Q Do you know what their function is?

14 A I would assume that it's varied multiple
15 functions, and I couldn't say what they all are.

16 Q Do you know what any of their functions --
17 excuse me. Do you know what any of its functions would be?

18 A Not specifically enough to list here.

19 MS. BRECKENRIDGE: Last exhibit.
20

21 (NIXON EXHIBIT NO. 12
22 was marked for identification.)
23

24 BY MS. BRECKENRIDGE:

25 Q I'm sorry. Have you had a chance to read

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Exhibit Number 12?

A I've looked it over enough, I think, at this point.

Q Do you know what it is?

A No. Except I believe it's a case of mistaken identity. G. Nixon very well in this case might mean Greg Nixon. We get each other's mail a lot. It says it was received by technical services flavor operations. That's not me. I'm pretty sure this is somebody else.

Q I'm sorry. What department -- I was laughing, so I don't know what department Greg Nixon is in.

A I'm just guessing because of the stamp up here. It says, Technical services flavor operations, and that sounds reasonable to me.

MS. BRECKENRIDGE: Off the record.

(Discussion off the record.)

BY MS. BRECKENRIDGE:

Q Dr. Nixon, who would be the best person to discuss actual research products undertaken by INBIFO? Would that be Wolf Reininghaus?

A I think it depends on -- discuss in what sense?

Q Discussing in the sense of actual testing

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undertaken. Who would that be?

A I believe Dr. Reininghaus would have input. There are certainly a number of people at INBIFO with different areas of expertise.

Q Would Dr. Reininghaus be the best person to discuss conclusions from INBIFO research?

A I don't really think it's up to me to make that call.

Q Would you consider yourself the best person to discuss conclusions derived from INBIFO research?

A No.

Q Would you consider yourself to be the best person to discuss objectives of INBIFO research?

(Ms. Blank departed.)

A No.

BY MS. BRECKENRIDGE:

Q Would you be the best person to discuss the types of testing which underlies INBIFO research?

A No.

Q Have you ever in your capacity as a scientist or as a biochemist participated in any INBIFO research

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2 project?

3 A No.

4 Q In your own opinion, who would be the person
5 who has the best overview of INBIFO research? Would it be
6 Dr. Reininghaus?

7 A I believe so, yes.

8 Q I wanted to follow up on a question I asked
9 earlier about final reports and how they are maintained,
10 final INBIFO reports and how they are maintained in your
11 area. Do you maintain the final reports by project title or
12 by project number, or how do you maintain them?

13 A I have them in order by project number in file
14 cabinets, so they are easy to pull out if I know the number.

15 Q Now is the project number assigned by Philip
16 Morris USA as opposed to INBIFO?

17 A No, it's assigned by INBIFO.

18 Q And does that project number relate only to the
19 INBIFO project?

20 A Yes.

21 Q If the INBIFO work or project is related to
22 other research that's ongoing at Philip Morris in other
23 areas, would the other research have the same number as the
24 INBIFO research?

25 A I don't believe so.

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2 Q And let me give an example so I can make sure
3 that we're talking about the same thing. If INBIFO was
4 conducting research for the confidential Beta project, would
5 the number for the research done by INBIFO be the same for
6 research on the INBIFO product or work on the INBIFO -- let
7 me start over on this.

8 If INBIFO was conducting research for the Beta
9 project, they would be doing research under one number.
10 Would they assign a number?

11 A They would assign multiple numbers depending on
12 the work being done. As I said, they assign a project
13 number for very small aspects of work. They could assign a
14 project number to make sure a smoking machine was developed
15 properly for whatever test was needed. They could assign a
16 project number for an Ames assay of a certain prototype.
17 They could assign another project number for a different
18 assay of a certain prototype, and then you change
19 prototypes, you change numbers. There are certainly
20 projects that are related.

21 Q So there is no one project number for Beta?

22 A No.

23 Q Who was the Philip Morris INBIFO liaison prior
24 to you?

25 A I believe it was Richard Carchman.

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2 Q Did he carry out the same responsibilities you
3 do or different responsibilities?

4 A Well, I can't say for sure because I didn't
5 work side by side with him at the time. He, I believe, had
6 other responsibilities in addition to the ones that I have
7 in management capacity at PM USA.

8 Q Prior to your tenure as the INBIFO liaison
9 person, were the INBIFO documents sent to Philip Morris USA
10 sent to central files?

11 A I don't know.

12 Q Does your collection of INBIFO documents
13 include documents that predated your tenure?

14 A Yes.

15 Q Do they go back to a certain point of time --
16 point in time?

17 A No.

18 Q To your knowledge do they include all INBIFO
19 documents ever sent to Philip Morris USA? I'm talking about
20 your collection now.

21 A I wouldn't have any way of knowing.

22 Q Is there any definitive description of the
23 documents which are included in the collection that predate
24 your tenure? For instance, could you say all final reports
25 created prior to my tenure are part of my collection of

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INBIFO documents?

A Oh, I couldn't say.

(Ms. Blank returned.)

BY MS. BRECKENRIDGE:

Q One area of your job which I don't think we've heard about today is the work you do for Richard Cox. You provide some support to him as the vice president of research; is that correct?

A Yes.

Q How would you describe that part of your job?

A Well, I think I did describe it fairly early on when I said if there's a question maybe about previous research that's been done within the company or research that's available in the literature on a certain question, he may ask me to go back and make a summary sort of statement about it or whatever.

Q Do you keep a copy of those summaries?

A Uh-huh.

Q Can you estimate what percentage of your time is spent on that job function?

A It varies tremendously. I mean, I can go for weeks or months with no question at all and then have three

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in a row that take up two or three weeks of my time solid.
It's hard to estimate.

Q Have you had any contact with the Tobacco
Institute during your career at Philip Morris?

A No.

Q Have you had any contact with the Council for
Tobacco Research?

A No.

Q Have you had any contact with any advertising
agencies that work with Philip Morris?

A I took a tour of Leo Burnett when it was in a
management development program.

Q Have you done any work with advertising
agencies who work for Philip Morris?

A No.

Q Have you done any work for the advertising or
marketing department of Philip Morris?

A No.

Q Have you ever been a member of a tobacco
industry committee or organization?

A No.

Q Have you ever been Philip Morris's
representative on any outside organization or board?

A No.

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1
2 Q Have you ever given any speeches related to
3 your work at Philip Morris to people outside the company?

4 A I participated in a career day in a middle
5 school once. That's as close as I ever came.

6 Q Have you ever had any involvement with Caresta?

7 A No.

8 Q Are you aware of any R&D facilities outside of
9 the ones we've discussed today? Philip Morris USA R&D
10 facilities.

11 A Not specifically. I couldn't say whether there
12 are more or not.

13 Q You don't know if there are more?

14 A No.

15 Q Do you know if INBIFO has ever done live human
16 research for Philip Morris?

17 A What do you mean live?

18 Q Human research, I guess I should say, for
19 Philip Morris.

20 A There was a sensory-related project conducted
21 by Frank Gullotta that I'm aware of.

22 Q Do you know if INBIFO has done any primate
23 research on behalf of Philip Morris USA?

24 A I don't know.

25 Q In preparing for your deposition, I assume you

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met with your Philip Morris lawyers; is that a correct assumption?

A I guess maybe one was from Philip Morris.

Q Did you meet with Philip Morris lawyers to prepare for your deposition?

A Yes.

Q Did you meet with anyone else to prepare for your deposition?

A No.

Q Did you talk to your colleagues about your deposition?

A Not other than the fact that I was going to have one.

Q Did you contact INBIFO regarding your deposition?

A No. Again other than letting them know it was going to happen.

MS. BRECKENRIDGE: I believe that's all my questions. Your lawyers may have some questions.

MR. WRENN: No questions of the witness at this time. For the record though I'd like to indicate that portions of the testimony of this deposition may be classified as either confidential or highly confidential under the Washington protective order, and that legend

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should bear on the front page of the deposition transcript.

MS. BRECKENRIDGE: Dr. Nixon, thank you for
your time.

THE DEPONENT: Thank you.

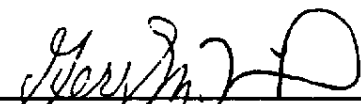
And further this deponent saith not.

(This deposition concluded at 2:53 p.m.)

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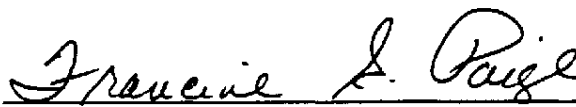
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Gerry M. Nixon, Ph.D.

Commonwealth of Virginia, to wit:

Subscribed to before me
this 27th day of October, 1997.


Francine L. Paige
Notary Public

My commission expires: 2/28/2001

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COMMONWEALTH OF VIRGINIA AT LARGE, to wit:

I, Michaela Herman Davis, RPR, commissioned as Michaela H. Herman, Notary Public in and for the Commonwealth of Virginia at large, and whose commission expires July 31, 2000, do certify that the aforementioned appeared before me, was sworn by me, and was thereupon examined by counsel; and that the foregoing is a true, correct, and full transcript of the testimony adduced.

I further certify that I am neither related to nor associated with any counsel or party to this proceeding, nor otherwise interested in the event thereof.

Given under my hand and notarial seal at Richmond, Virginia, this 17th day of October, 1997.

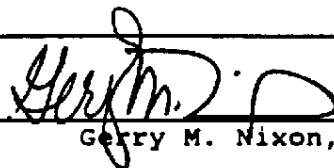


Michaela Herman Davis, RPR - Notary Public
Commonwealth of Virginia at Large

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CHANGES REQUESTED TO THE DEPOSITION OF
GERRY M. NIXON, Ph.D. TAKEN OCTOBER 1, 1997

Page/Line	From	To	Reason
28/24	Would feel	Wolf	incorrect name
37/9	Peter	Piter	misspelled throughout
45/24	Schoen	Schoen	" "
61/25	'into	No	nonsense answer
62/5	Castman	Kassman	misspelled throughout
98/15	hemoxigenase	heme oxigenase	misspelled
141/16	Misger	Meisger	" "
122/19	Widby	Whidby	misspelled throughout


Gerry M. Nixon, Ph.D.

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